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ANIMAL WELFARE ACT AMENDMENTS OF 1974

HEARINGS
BEFORE THE
SUBCOMMITTEE ON LIVESTOCK AND GRAINS
OF THE
COMMITTEE ON AGRICULTURE
HOUSE OF REPRESENTATIVES
NINETY-THIRD CONGRESS
SECOND SESSION
ON
H.R. 15843, H.R. 16738, and Related Bills

AUGUST 6, 7, 8, 13, 14, 15, AND 20, SEPTEMBER 30,
AND OCTOBER 2, 1974

Serial No. 93-TTT



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ANIMAL WELFARE ACT AMENDMENTS OF 1974

TUESDAY, AUGUST 6, 1974

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON LIVESTOCK AND GRAINS
OF THE COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:05 p.m., in room 1302, Longworth House Office Building, Hon. Thomas S. Foley (chairman of the subcommittee) presiding.

Present: Representatives Foley, Bergland, Denholm, Mayne, Zwach, and Sebelius.

Mr. FOLEY. The Subcommittee on Livestock and Grains will come to order.

The subcommittee meets this afternoon for consideration of H.R. 15843 and other bills relating to the Animal Welfare Act amendments.

[The bill H.R. 15843, and the reports from the U.S. Postal Service and Interstate Commerce Commission follow:]

(1)

93^D CONGRESS
2^D SESSION

H. R. 15843

IN THE HOUSE OF REPRESENTATIVES

JULY 10, 1974

Mr. FOLEY introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the Act of August 24, 1966, as amended, to assure humane treatment of certain animals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Animal Welfare Act
4 Amendments of 1974".

5 SEC. 2. The Federal Laboratory Animal Welfare Act
6 of August 24, 1966 (80 Stat. 350, as amended by the
7 Animal Welfare Act of 1970, 84 Stat. 1560; 7 U.S.C.
8 2131-2155) is hereby further amended by adding the fol-
9 lowing at the end of the first section thereof: "The Congress
10 hereby finds that animals and activities which are regulated
11 under this Act are either in interstate or foreign commerce

1 or substantially affect such commerce or the free flow
2 thereof, and that regulation of such animals and activities
3 as provided in this Act is necessary to prevent and eliminate
4 burdens upon such commerce, to effectively regulate such
5 commerce, and to carry out the objectives of this Act.

6 SEC. 3. Section 2 of such Act is amended by deleting
7 paragraph (d) defining "affecting commerce"; and by
8 amending paragraph (c) defining "commerce" by chang-
9 ing the last clause to read "or within any State, territory,
10 possession, or the District of Columbia."

11 SEC. 4. Such Act is further amended by deleting the
12 term "affecting commerce," from paragraphs (e) and (f)
13 of section 2 and sections 4, 11, and 12, wherever the quoted
14 term appears therein, and by substituting therefor the term
15 "in commerce,"; and by deleting, from paragraph (h) of
16 section 2, the phrase "or the intended distribution of which
17 affects commerce, or will affect commerce," and substituting
18 therefor the phrase "or are intended to be moved in com-
19 merce,".

20 SEC. 5. Section 2 of such Act is further amended by
21 adding thereto two new paragraphs to read:

22 "(i) The term 'intermediate handler' means any per-
23 son, other than a dealer, research facility, exhibitor, any
24 person excluded from the definition of a dealer, research
25 facility, or exhibitor, an operator of an auction sale, or a

1 common carrier, who is engaged in any business in which
2 he receives custody of animals in connection with their
3 transportation in commerce.

4 “(j) The term ‘common carrier’ means the operator of
5 any airline, railroad, shipping line, or other enterprise,
6 which is engaged in the business of transporting any ani-
7 mals for the public, for hire.”

8 SEC. 6. Section 6 of such Act is amended by inserting
9 after the term “research facility”, a comma and the term
10 “every intermediate handler, every common carrier,”

11 SEC. 7. Section 9 of such Act is amended by inserting
12 after the term “Section 12 of this Act,” the term “or an
13 intermediate handler, or a common carrier,” and by delet-
14 ing the term “or an operator of an auction sale as well as of
15 such person” at the end of section 9 and substituting there-
16 for the following term: “operator of an auction sale, inter-
17 mediate handler, or common carrier, as well as of such
18 person.”

19 SEC. 8. Section 10 of such Act is amended to read as
20 follows:

21 “SEC. 10. Dealers, research facilities, intermediate
22 handlers, common carriers, and exhibitors shall make and
23 retain for such reasonable period of time and on such forms
24 as the Secretary may prescribe such records with respect to
25 the purchase, sale, transportation, identification, receiving,

1 handling, delivering, and previous ownership of animals as
2 the Secretary may prescribe. Such records shall be made
3 available at all reasonable times for inspection and copying
4 by the Secretary.”.

5 SEC. 9. Section 13 of such Act is amended by designat-
6 ing the provisions thereof as paragraph (a) and by adding,
7 after the second sentence therein, a new sentence to read:
8 “The Secretary shall also promulgate standards to govern
9 the transportation in commerce, and the handling, care, and
10 treatment in connection therewith, by intermediate handlers,
11 air carriers or other common carriers, of animals consigned
12 by any dealer, research facility, exhibitor, operator of an
13 auction sale, or other person, or any department, agency, or
14 instrumentality of the United States, for transportation in
15 commerce. The standards shall include such requirements
16 with respect to containers, feed, water, rest, ventilation, tem-
17 perature, handling, adequate veterinary care, and other fac-
18 tors as the Secretary determines are relevant in assuring
19 humane treatment of animals in the course of their trans-
20 portation in commerce.”.

21 SEC. 10. Section 13 of such Act is further amended by
22 adding at the end thereof new paragraphs (b), (c), and
23 (d) to read:

24 “(b) No animals shall be delivered by any dealer,
25 research facility, exhibitor, operator of an auction sale, or

1 department, agency, or instrumentality of the United States,
2 to any intermediate handler or common carrier for transpor-
3 tation in commerce, or received by any such handler or car-
4 rier for such transportation from any such person, depart-
5 ment, agency, or instrumentality, unless the animals are ac-
6 companied by a certificate issued by a veterinarian licensed
7 to practice veterinary medicine, certifying that the animals
8 when so delivered are sound, healthy, and in such condition
9 that they may reasonably be expected to withstand the
10 rigors of the intended transportation without adverse effects.
11 Such certificates received by the intermediate handlers and
12 the common carriers shall be retained by them as provided in
13 section 10 of this Act.

14 “(c) No dogs or cats, or additional kinds or classes of
15 animals designated by regulation of the Secretary, shall be
16 delivered by any person to any intermediate handler or com-
17 mon carrier for transportation in commerce if they are less
18 than eight weeks of age, or such other age as the Secretary
19 may by regulation prescribe. The Secretary shall designate
20 additional kinds and classes of animals and may prescribe
21 ages different than eight weeks for particular kinds or classes
22 of dogs, cats, or designated animals, for the purposes of this
23 section, when he determines that such action is necessary
24 or adequate to assure their humane treatment in connection
25 with their transportation in commerce.

1 “(d) No intermediate handler or common carrier in-
 2 volved in the transportation of any animal in commerce shall
 3 participate in any arrangement or engage in any practice
 4 under which the cost of such animal or the cost of the trans-
 5 portation of such animal is to be paid and collected upon
 6 delivery of the animal to the consignee.”.

7 SEC. 11. Section 15 of such Act is amended by insert-
 8 ing after the term “exhibition” in the first sentence, a comma
 9 and the term “or administration of statutes regulating the
 10 transportation in commerce or handling in connection there-
 11 with of any animals”, and by adding the following at the
 12 end of the sentence: “No standard governing the air trans-
 13 portation and handling of animals in connection therewith
 14 shall be made effective without the approval of the Secre-
 15 tary of Transportation who shall have the authority to dis-
 16 approve any such standard if he finds that changes in its
 17 provisions are necessary in the interest of flight safety.”.

18 SEC. 12. Paragraph (a) of section 16 of such Act is
 19 amended by inserting the term “intermediate handler, com-
 20 mon carrier,” in the first sentence after the term “exhibi-
 21 tor,” each time the latter term appears in the sentence; by
 22 inserting before the period in the third sentence, a comma
 23 and the term “or (5) such animal is held by an intermediate
 24 handler or a common carrier” and by deleting the term
 25 “or” before the term “(4)” in the third sentence.

1 SEC. 13. Section 19 of such Act is amended by adding
2 at the end thereof the following new paragraph (d) :

3 “(d) Any intermediate handler or common carrier that
4 violates any provision of section 13 of this Act or any stand-
5 ard promulgated thereunder may be assessed a civil penalty
6 by the Secretary of not more than \$1,000 for each such
7 violation. Each violation shall be a separate offense. No
8 penalty shall be assessed unless such person is given notice
9 and opportunity for a hearing with respect to the alleged
10 violation, and the order of the Secretary assessing a penalty
11 shall be final and conclusive unless the affected person files
12 an appeal from the Secretary’s order with the appropriate
13 United States court of appeals. Such court shall have ex-
14 clusive jurisdiction to enjoin, set aside, suspend (in whole
15 or in part), or to determine the validity of the Secretary’s
16 order, and the provisions of sections 2341, 2343 through
17 2350 of title 28, United States Code, shall be applicable
18 to such appeals and orders. Any such civil penalty may be
19 compromised by the Secretary. Upon any failure to pay the
20 penalty assessed by a final order under this section, the
21 Secretary shall request the Attorney General to institute a
22 civil action in a district court of the United States or other
23 United States court for any district in which such person
24 is found or resides or transacts business, to collect the pen-

1 alty, and such court shall have jurisdiction to hear and decide
2 any such action.”.

3 SEC. 14. Section 24 of such Act is amended by inserting
4 a comma and the term “intermediate handlers, and common
5 carriers” after the term “dealers” in the third sentence; and
6 by adding a comma and the following provisions before the
7 period at the end of the first sentence: “except that the reg-
8 ulations relating to intermediate handlers and common car-
9 riers shall be prescribed no later than nine months from the
10 date of enactment of the ‘Animal Welfare Act Amendments
11 of 1974’”; and by inserting “, except section 26,” imme-
12 diately after “provisions of this Act” in both the second and
13 third sentences.

14 SEC. 15. (a) Such Act is amended by adding at the end
15 thereof the following new section:

16 “SEC. 26. (a) It shall be unlawful for any person to
17 knowingly sponsor or attend a dog or animal fighting venture
18 as a result of engaging in interstate or foreign commerce:

19 “(b) It shall be unlawful for any person to transport,
20 or deliver to another person for purposes of having trans-
21 ported, in interstate or foreign commerce—

22 “(1) any live dog or animal which the person, who
23 so delivers or transports, knows or has reason to know
24 has been trained to participate in dog or animal fighting
25 ventures; or

1 SEC. 16. If any provision of this Act or of the amend-
2 ments made hereby or the application thereof to any person
3 or circumstances is held invalid, the validity of the remainder
4 of the Act and the remaining amendments and of the ap-
5 plication of such provision to other persons and circum-
6 stances shall not be affected thereby.

U.S. POSTAL SERVICE,
LAW DEPARTMENT,
Washington, D.C., August 14, 1974.

Hon. THOMAS S. FOLEY,
Chairman, House Agriculture Subcommittee on Livestock and Grains, Committee on Agriculture, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of the Postal Service on H.R. 15843, a bill that would amend the Laboratory Animal Welfare Act of 1966, as amended, (7 U.S.C. 2131, et seq.), by prescribing additional regulations and record-keeping requirements for commercial carriers of certain warm-blooded animals being transported in commerce.

The prime thrust of this legislation, as well as that of the two prior Animal Welfare Acts (P.L. 89-544 and P.L. 91-579), is the humane treatment of warm-blooded animals used for experimentation. See S. Rep. No. 1281, 89th Cong., 2d Sess. (1966) and H.R. Rep. No. 91-1651, 91st Cong., 2d Sess. (1970). The statute, however, specifically excludes "farm animals, such as, but not limited to, livestock or poultry, used or intended for use as food or fiber" from the definition of the term "animal." 7 U.S.C. 2132(g). Since the only warm-blooded animals that may be carried in the mails are live day-old poultry (39 C.F.R. § 124.3(c)(2)(ii)), it is clear that transportation of such farm animals in the mails is not covered by this legislation. Furthermore, the welfare of the day-old poultry that may be mailed is governed by detailed Postal Service regulations which exhibit a high degree of sensitivity to that welfare. 39 C.F.R. 124.3(c)(1)(i) through (xiv).

We note, however, that section 15 of the bill provides that the Secretary of Agriculture may issue regulations concerning the humane handling of livestock in the course of their transportation by common carriers. The word "livestock" is not defined in the bill, in the existing statute, or in the Laboratory Animal Welfare regulations of the Secretary of Agriculture. Although common usage of the word may indicate that "livestock" includes poultry, we believe the background of the legislation indicates no intention to regulate the shipment of baby poultry from hatchery to farm, which has been an important and highly regulated function of the Postal Service for many years. Moreover, we would oppose any amendment of the section to apply it to the Postal Service because, as we said in our May 21, 1974, report to the House Post Office and Civil Service Committee on H.R. 13590 (a bill to prohibit COD mail for certain animals):

"Through the years, the shipment of baby poultry from hatchery to farm has been an important function of the Postal Service. We oppose legislative action . . . which would limit the availability of this service to farmers and other rural Americans."

Sincerely,

W. ALLEN SANDERS,
*Assistant General Counsel,
Legislative Division.*

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., August 19, 1974.

Hon. THOMAS S. FOLEY,
Chairman, Subcommittee on Livestock and Grains, Committee on Agriculture, House of Representatives, Washington, D.C.

DEAR CHAIRMAN FOLEY: This replies to your request for our views on H.R. 15843, a bill to amend the Federal Laboratory Animal Welfare Act (7 U.S.C. 2131 et. seq.).

The Animal Welfare Act, as found in 7 U.S.C. 2131 et. seq., provides that the Secretary of Agriculture shall establish regulations for the humane treatment of animals purchased, handled, sold, and transported by dealers to research facilities or exhibitors in interstate commerce. The act further requires the licensing of dealers and exhibitors as well as the registration of research facilities. It is unlawful under the act for any research facility to purchase any dog or cat from an unlicensed dealer. Records are required to be kept of all sales or transportation of animals by dealers, exhibitors, and research facilities. The Secretary has been granted investigatory powers and a violation could result in civil penalties or a criminal fine. Common carriers are specifically excluded from the act.

The original purpose of the Animal Welfare Act was to regulate the supplying and treatment of animals being sold to research facilities. In 1966, Congress

learned that many hundreds of animals were being supplied to such research facilities yearly. In order to meet the demand many inhumane dealers began to steal pets such as dogs and cats from their owners for resale. These animals often were ill-treated by the dealers and research facilities. The Welfare Act was passed to curb these abuses and thefts of pets. *See*, 1966 U.S. Code Cong. and Adm. News, p. 2635.

This bill will create the Animal Welfare Act Amendments of 1974. The term "commerce" will be expanded to include transportation within the states. Also, the bill now will require intermediate handlers, and common carriers to be subject to the recordkeeping requirements. The Secretary will be given the further power to provide regulations regarding the proper treatment of animals being transported by common carriers. The amendments will provide for civil penalties for violation of these regulations.

Section 5 of the bill defines the term common carrier to mean the "operator of any airline, railroad, shipping line, or other enterprise, which is engaged in the business of transporting any animals for the public, for hire." Obviously, this definition will include a motor carrier transporting animals, however, for purposes of clarity, section 5(j) of the bill should be amended to specifically include motor common and contract carriers. Clearly, the intent of the bill is to cover motor transportation, and this amendment would remove any doubt as to its applicability. This suggestion stems from the fact that a significant portion of this traffic is by motor carrier. A synopsis of the transportation of animals by various modes will be submitted to the Subcommittee in the very near future.

Section 10(d), by prohibiting C.O.D. and similar shipping arrangements, directly affects the rights and obligations of shippers and carriers under the Interstate Commerce Act.

Before enacting such a prohibition, no doubt the Subcommittee will compile an exhaustive record as to the need for such action, and, if such action is required, this Commission will cooperate by enforcing the ban on this traffic. Notwithstanding the proposed prohibition against C.O.D. and similar shipping arrangements. Even if the shipment is prepaid there may arise instances in which the animals being shipped may be returned to the originating carrier or shipper because of the inability of the originating carrier to arrange for movement beyond its lines. Section 216(c) of the Interstate Commerce Act provides that motor common carriers may establish reasonable through routes and joint rates with other such carriers or other specified common carriers. The Commission has requested the Congress for authority to require the establishment of joint rates and through routes in appropriate instances. (Copy enclosed)

Section 15 of the act will be amended to require the Secretary to consult and cooperate with all Federal agencies concerned with the welfare of animals and the regulation of transportation. The bill specifically requires the Secretary to consult with the Secretary of Transportation who shall have the authority to disapprove any standard if he finds it necessary for flight safety. A specific provision could be added granting the regulatory agencies the right to disapprove any standard which interfered with their statutory regulatory goals.

Section 19 of the act is to be amended to allow the Secretary to assess a civil penalty of not more than \$1,000 for each violation. The violator will be given an opportunity to be heard but the Secretary's assessment shall be final unless an appeal is filed with the appropriate United States Court of Appeals. The Attorney General is granted authority to institute a civil action to collect such penalty if not paid.

If amended, section 19 will present some problems. First, it establishes a maximum penalty of \$1,000 for each violation but no minimum penalty is provided for therein, although one is provided for in the original "28 Hour" statute (45 U.S.C. 71-74). A minimum penalty is desirable in order to prevent an administrator or judge from abusing his discretion in assessing a ridiculously low penalty. Second, the section states that each violation shall be a separate offense. It is not clear if a violation is one shipment or one inhumane treatment of one animal in violation of the regulations of the Secretary. This point should be clarified.

You have also requested a status report in the application of Auto Driveaway Company in No. MC-125985 (Sub No. 19). This application was filed November 21, 1973, for motor common carrier authority to transport (1) pets, (2) animals intended as pets, and (3) containers, supplies, and equipment used in the transportation, raising, and keeping of pets and animals intended as pets, between points in the District of Columbia, Indiana, Illinois, Iowa, Kansas, Maryland,

Massachusetts, Michigan, Missouri, Nebraska, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Virginia, and Wisconsin.

Following publication of the application in the Federal Register, protests were filed by Ruan Transport Corporation, Erickson Transport Corp., Harding Express Co., Creech Brothers Truck Lines, Inc., and Cosmopolitan Canine Carriers, Inc. Protestants' interest is essentially as follows: Ruan, Erickson, and Harding oppose part (3) of the application based on the authority generally to transport animal feed and feed ingredients; Creech protests because of its authority to transport livestock, other than ordinary; and Cosmopolitan seeks to protect its rights to transport dogs and cats and containers for such animals, restricted to transportation of traffic having a prior or subsequent air movement.

Applicant's verified statements, including that of its supporting shipper, Puppy Palace Enterprises, Inc., were filed May 31, 1974; those of Creech and Cosmopolitan were filed July 16, 1974; and applicant's rebuttal was filed August 12, 1974.

The application is now pending; and, of course, because of its pending status, the Commission cannot discuss the merits of the case in its comments on the subject bill.

In conclusion, the Commission has no objection to the enactment of H.R. 15843 if the above suggestions are adopted.

Thank you for the opportunity to comment upon this legislation.

Sincerely yours,

GEORGE M. STAFFORD,
Chairman.

Enclosure.

[The enclosures referred to are held in the committee files.]

Mr. FOLEY. The first witness this afternoon will be the distinguished chairman of the full Committee on Agriculture, the Honorable W. R. Poage of Texas.

Mr. Chairman, we are very happy to have you appear at the subcommittee this afternoon.

STATEMENT OF HON. W. R. POAGE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. POAGE. Thank you very much, Mr. Chairman. Thank you for permitting me to appear before your distinguished subcommittee. While I cannot speak to all of the details of your bill, I do agree with its general purposes.

For a great many years I have sponsored and supported animal welfare legislation. I believe that we should protect all animals from all unnecessary suffering. I was the author of the original Humane Slaughter Act, which for the first time provided for the reduction of the suffering of livestock in slaughterhouses.

I sponsored the Laboratory Animal Welfare Act of 1966 and I have supported amendments to this law since that time. The Laboratory Animal Welfare Act was the first piece of legislation offering Federal protection for hundreds of thousands of dogs, cats, and other animals used in research. I have always maintained that legitimate research utilizing animals is essential and such research has greatly benefited mankind through the years. However, I have not tolerated the needless abuse and mishandling of research animals.

I sincerely believe the Laboratory Animal Welfare Act, and amendments thereto, have eliminated many illegitimate animal dealers and has offered protection for those animals which are the subject of research.

The bill before us today goes into other areas, such as the commercial transportation of pets and the shipment of livestock by truck

and airplanes, I believe. I believe changes in this area are needed and desirable.

I know that here in this room there are representatives from a number of animal welfare societies. I know the representatives of these organizations are sincere in the beliefs. However, I want to bring to the attention of this subcommittee and everyone in this room what I consider to be a most ironic situation wherein these very people are, in effect, taking sides with cruel predators and subjecting both domestic cattle, sheep, and goats, as well as wild deer, turkeys, and smaller animals, to completely unnecessary pain simply in order to increase the already excessive population of coyotes and other predators.

I am sure that most of you know that in February of 1972, the President issued an Executive order that banned the use of chemical toxicants for predator control on Federal lands and in Federal programs. Soon thereafter, the Environmental Protection Agency canceled the registrations of 19 predator control poisons and the Department of the Interior prohibited their personnel from engaging in the use of predator poisons. As one individual commented, they decimated our flocks of sheep and goats, while putting coyotes on welfare.

Soon after this was done, I began hearing, as you would expect, from farmers and ranchers all over the Nation that the losses to their livestock, primarily sheep, had increased dramatically. I traveled through my district and everywhere I went I was cornered by ranchers who asked me why I could not do something about it. I talked to the President, to the Secretary of the Interior, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency until I was blue in the face, but to no avail. I was told from most of those sources that the pressure was too strong from the humane societies.

Finally, I was able to persuade the Environmental Protection Agency to begin an experimental program using the cyanide gun in restricted areas. The first such program was to have been put into effect in a number of counties in central Texas on February 1 of this year. Unfortunately, the proposal was enveloped in such a mass of regulations and redtape that I doubted that it would prove to be very effective. However, it was a glimmer of hope.

Upon learning of this proposal, many of the humane societies all over the country reacted in anguish, and one of the largest of these organizations, the Humane Society of the United States, filed a complaint against the Environmental Protection Agency on March 1 in the U.S. district court here in the District of Columbia. A temporary restraining order was issued and it was not until March 27, almost 4 weeks later, that the preliminary injunction was dissolved.

This 4-week-delay in the very middle of the lambing season crippled the experimental program because by the time it finally got underway, the lambing season was practically over. This delay clearly resulted in the death of thousands of lambs, kids, calves, and fawns. It is hard for me to understand how a humane organization could have taken a position to protect the coyote instead of protecting the baby lambs.

What I have asked for is that farmers and ranchers be permitted to protect their livestock by means of a highly selective and non-persistent toxicant. I have not asked a return to 1080 or any other persistent poison. The cyanide gun does not involve a persistent

poison. It kills quickly and humanely. It leaves no residue. The cyanide gun is highly selective. It causes almost instant death to the coyote and it kills very few animals except coyotes.

The Environmental Protection Agency has expressed great concern over the safety of the ranchers who use these guns. In the hands of an experienced rancher this gun is relatively safe. I know of only one documented case of loss of human life in handling the cyanide gun, and it appears that in this case the victim was drunk, and did not realize the danger involved. These guns are placed only in those areas where the livestock is located.

Certainly the cyanide gun is far more humane than steel traps or denning practices which are approved but are not very effective. A coyote will chew off his leg to get out of a steel trap. The practice of finding the den of a coyote and dragging out the coyote pups with hooks is certainly a cruel practice. Why these groups prefer these brutal practices to the cyanide gun is beyond me.

The only logical explanation seems to be that they want to protect an unusually large number of coyotes, and it seems clear that they are more interested in more coyotes than they are in avoiding unnecessary suffering for either coyotes themselves or their victims.

The experimental program in Texas was finally begun, long after this year's lambing season was over, but the court delay has decreased its effectiveness and there is a severe shortage of cyanide guns. No one can afford to manufacture these guns without any assurance that they can be used next year and the next.

I have requested the Department of the Interior to release some of its vast surplus of these devices for use in those experimental programs. I have not heard from them. There is only one manufacturer of the cyanide gun, and I can understand why he is reluctant to expand his operations since under present circumstances even the experimental program can be called off by the Environmental Protection Agency without warning.

Are the so-called humane groups less interested in alleviating the suffering of a lamb or a fawn that has its throat slit, probably in the presence of its mother, than they are in the pain momentarily suffered by a coyote that has triggered a cyanide gun?

We simply must understand that coyotes are predators. Their whole lives are devoted to killing other animals. True, they are a part of the so-called balance of nature and before mankind changed that balance they performed a useful function in eliminating the weak and the old. But today the balance of life which we see in our fields and pastures is not that of prehistoric days.

It is an ever-changing balance in which mankind strives to make serve the largest possible number of human beings. Were we to maintain this old predator enforced balance of nature, there would be no way whereby we could maintain our present human population. The deer and the buffalo could not supply the meat needed for more than a small fraction of our present population and were our land left to the deer, the buffalo, and the coyotes, we would have no crops of any kind because there would be no land in cultivation.

Obviously, Mr. Chairman, no American in his right mind could want to return to the ecology which existed on this continent when Columbus landed. If we are not to return to this ecology, we must

recognize that mankind must make decisions as to which animals and plants will occupy various sections of the land and this means that we must make a choice between coyotes—which are certain to destroy many other animals—and sheep, goats, chickens, and cattle, which are essential to mankind's economic being, along with deer, turkeys, quail, and other birds and animals which are valued for their aesthetic qualities.

As of now, our Government seems to have made a choice, which I think is a mistaken choice, and it seems to have made this choice at the insistence of most of the very groups who are today asking your committee to promulgate new rules presumably to protect certain animals from unnecessary suffering. I join in their desire to minimize animal pain and suffering, but when I see what these groups are actually doing in the protection of predators and how they are multiplying suffering of inoffensive animals, and how their policies if carried to their logical extremes would cause untold human suffering, I cannot but question their judgment on all subjects.

Therefore, I ask again: Why have the animal welfare societies chosen to protect the predator at the expense of the baby lamb?

I have a photograph taken in my own district. It was taken in November of last year. It appeared in the Williamson County Sun. I want all of you who have chosen to protect the predator to come up and take a close look at these 17 baby lambs killed in 1 night.

Clearly, the coyotes killed these lambs more for the lure of killing them than for the need of food. Unless they were really hungry the coyotes would probably simply eat the tongue, liver, or heart. I have known instances where coyotes have eaten the tongue of a live cow giving birth to a calf. I ask you, is this humane?

I know of no more helpless animal than a baby lamb or a cow giving birth to a calf.

Why did the Humane Society of the United States do everything possible to stop even this experimental program to give some humane protection to these lambs or the helpless cow?

I think maybe that organization and all of the rest of you should take another look at your policies. When you have to choose death for one animal against another, why not condemn the useless against the inoffensive?

A few years ago, many of the representatives of the large cities complained that the homes of their people were being overrun by rats. Rats are not necessarily predators. They kill very few animals, but they do create unsanitary and undesirable conditions in human habitation. I think that we must apply a rule of reason to rats and control them in favor of the well-being of humans.

I therefore voted for an appropriation of \$25 million grant to destroy rates in our large cities. I think most of us agree that we must maintain this kind of control over these animals that cause so much inconvenience and economic loss. We exercise this control through the use of some of the most inhumane poisons ever developed. The EPA specifically authorized the use of 1080 to kill rats.

I have not asked you, and do not intend to ask you, to let us use this painful and persistent poison to kill coyotes. The EPA authorizes the use of poisons which are advertised not to kill rats quickly but to cause their blood vessels to burst so that they bleed internally but are able to move in great pain out of the house in which they are found

to die somewhere else after hours or even days of intense suffering. Such poison claims to be a selective killer, but it kills squirrels and other small animals that inhabit our cities. I have not heard one word from the humane societies about protecting the meager wildlife of our cities.

I suppose this is because most of the membership of these groups live in these cities and are more immediately concerned with eliminating animals that they conceive to be a nuisance than in protecting the small inhabitants of the parks.

May I suggest that unless these groups develop some concern for the control of animals which threaten their food supply, Americans will go hungry much sooner than anyone is now predicting and people the world over who have enjoyed the benefits of America's great agricultural productivity will die of starvation in order that we may maintain our coyote population—and to whom do these coyotes give comfort or cheer?

I support the purpose of the bill before us, but I am tired of working with our animal welfare groups only to see them turn against us when our farmers and ranchers are crying for a means to protect their livestock. I am tired of supporting the legislation that these groups want when I hear every day from many people that their livestock is being devastated by the coyote.

Until I see some sign from our friends in the animal welfare groups that they recognize the right of the farmers and ranchers to protect their flocks by the use of humane predator control devices, then I do not believe I can be very enthusiastic, Mr. Chairman, about supporting legislation designed to protect other animals. The baby lamb chewed up by a coyote suffers just as much as a puppy that might die on a commercial flight. When I speak of protecting livestock, I not only speak in economic terms but in humane terms. I do not want that puppy to die of suffocation and I do not want that lamb to be chewed up.

I hope all of you are listening. There is absolutely no justification for denying the use of a device that is highly selective and nonpersistent. I think that all of you had better take a more realistic look at the predator situation before you can expect to receive much cooperation from some of us in protecting other animals.

Mr. Chairman, I thank you for listening to me, and I ask unanimous consent to insert in the record an article which appeared in the Williamson County Sun on November 29, 1973. And I would like to invite, Mr. Chairman, all of those who are present to just take a look at some of these lambs. Now, I have heard all these stories about how coyotes did not kill except when they were hungry and, oh, they are not any threat to anybody.

Look at those. Those are dead animals. That happened in the last few months because we had no way of protecting them. The rancher cannot sit out above every wolf hole on his ranch. He cannot be everywhere at one time. He can only control these predators with the use of some kind of toxicant. We want him to control them with the most humane toxicant we can get. But your organizations, many of you, have supported the use of some of the most cruel toxicants the world has ever produced in cities. And then you complain that the farmers and ranchers should not use the most humane methods they know.

[The news article referred to appears on p. 20.]

Mr. Chairman, I am very much obliged to you.

Mr. FOLEY. Thank you very much, Mr. Chairman.

The Chair would certainly like to underscore your contributions to animal welfare legislation, including the initial Humane Slaughter Act, which you mentioned, and the Animal Welfare Act amendments that have come before this committee. I think that your support for animal welfare legislation is clearly reflected in the record and should be recognized. You have been an outstanding leader not only in bringing this legislation to the floor but in managing its enactment by the House of Representatives.

Are there any questions of the Chairman?

Mr. MAYNE. I would like to thank the Chairman for his very eloquent statement. On page 7 you refer to the coyotes having killed these 17 baby lambs more for the lure of killing than for the need of food, and I must say that that coincides with the impression that I have of the nature of the coyote, that coyotes do kill just for the sake of killing. I get the impression from your statement that there is disagreement on this, however, in some quarters.

Is it seriously considered by anyone that the coyote does only kill for the purpose of obtaining food?

That seems to go entirely against the experience in my part of the country and in the States immediately west of Iowa.

Are you aware of any documentation or really serious contention that coyotes really do only kill for food?

Mr. POAGE. Why yes, Mr. Mayne. We have on several occasions in these meetings with the EPA had witnesses who appeared and said that a coyote never kills except to just supply itself and its pups with needed food. And now I think when you see 17 lambs—and there they are—killed in one night in one flock, they were not killed just for food, because the coyotes did not eat them. They may have eaten the heart out, they may have eaten the tongue, and they may have eaten the liver. Those organs seem to be their favorites. But as far as needing that food, the coyotes could have killed those animals and there probably were not more than two, and could have existed a year on those 17 lambs.

But they killed, and this is just tommy-rot to say that coyotes do not kill for just the lust of killing.

How do you account for such groups of dead animals if they just killed because they were hungry?

Why did they not eat the animals when they were killed?

Mr. MAYNE. Well, I must say I think your impression is the one that is shared by most people in the Midwest and the plains States from their personal acquaintance with the damage that has been done by coyotes through the years.

Thank you.

Mr. POAGE. Thank you, Mr. Mayne.

Mr. FOLEY. Mr. Zwach?

Mr. ZWACH. No special questions, Mr. Chairman.

Mr. BERGLAND. Mr. Chairman, I have one question, if I might. I want to commend the chairman for the colorful and articulate fashion in which he has presented his case. This is not the first time he has appeared before a committee in support of his contentions. He has always been most effective, Mr. Chairman.

My question goes to the experiment in central Texas using the cyanide gun. It was delayed by a month pending the appeal in court.

Is it now underway?

Mr. POAGE. It is now underway, but we are not able to get enough of the guns to make much of an experiment. I thought that the EPA made a serious mistake, and I so suggested at the time, in confining these guns to the M-44. There are several versions of the same general device, but this is a patented device and therefore there is only one outfit that can make them. A man by the name of Poteet in Midland, Tex., holds the patent. It is obvious that Mr. Poteet cannot afford to spend a large amount of money putting in the kinds of plant that he would need to produce the thousands of guns that are needed.

So he goes along and produces just a few each day. If this experiment is closed down there is no sale for the guns. So you cannot get the amount of guns that are needed.

Now, it is true that the Department of Interior has thousands of guns, I understand, in stock in Idaho. They bought them to control coyotes on public lands. But the order, of course, prohibits their use, and they have got them there, but they will not let us use those guns.

Mr. BERGLAND. Is the Environmental Protection Agency monitoring this experiment?

Mr. POAGE. Who?

Mr. BERGLAND. The Environmental Protection Agency, or by whom is this experiment being managed?

Mr. POAGE. Yes; EPA is sponsoring it and is monitoring it. It is being conducted by a group who supervises it, but it is being conducted by the ranchers themselves who put out the guns after a period of training. EPA felt that they had to spend a couple of weeks training each one of these fellows, who probably already knew more about that gun than those who were training them.

But many have taken that course of training. That has been done. They are now being monitored by EPA itself to see that they are keeping proper records.

But the point we are making is that there are now in Texas, there are 44 counties, there are other similar programs of this kind in a few other States. But there are several others other than this. There are 44 counties in Texas. Now, those counties average 1,000 square miles. It would take 44,000 of these guns to put one to each section of land. You cannot control the coyotes with one gun to a section of land. That is 640 acres. You have got to have more than that. Then it would take 44,000 of these guns to put one to each section of land just in the Texas experiment, and I do not know how large the other ones are.

The result is that we simply do not have the means out there to carry on a worthwhile experiment. I fear it may come up and show that this was very ineffective. I do not see how it can do anything else, because obviously, with the great distance you are going to have between these guns, you are not going to establish very much control.

Mr. BERGLAND. Thank you very much, Mr. Chairman.

Mr. FOLEY. Thank you very much, Mr. Chairman. We do appreciate your testimony and without objection the article from the Williamson County Sun will be included in the record at this point.

[The news article referred to follows:]

[From Williamson County (Tex.) Sun, Nov. 29, 1973]

WOLVES ARE INVADING WILLIAMSON COUNTY

Wolves killed seventeen little lambs Saturday night on Marvin Edwards' ranch—could have been more, but that was all he found.

"That is the most I've ever found in one night, but the wolves have been getting my lambs pretty regularly and also those of my neighbors," Edwards said.

His ranch is off the Florence highway north of Georgetown. Cobb Caverns are on his place. His neighbor, Hartwin Holmstrom, said the wolves have been into his lambs and that they have also eaten a lot of fawns.

Mrs. Homer Anderson stopped when she saw the truckload of lamb carcasses in front of the SUN Sunday afternoon, and said the wolves are also a problem east of town where she lives. Not only animals, they are getting chickens, too.

Judge Luther Chance came down to talk to the ranchers, and said, "Wolves are not limiting themselves to outlying ranches. I live near the city limits out Hutto Road and we can hear them at night. They raised a family on Smith Ranch within hearing distance of my home. My wife and I listened to the pups and the old wolves several nights."

"Ranchers all over the county are complaining of losing lambs," the judge said, "and trapper Alexander who is provided by the government for this county is a good trapper and is catching quite a few of them, but since the cyanide gun was banned last year it is making it pretty hard on him and on all of us. The trapper favors the cyanide gun, as do I and all the ranchers here. It is the most humane way of killing these wolves. They cannot get farther than 30 feet before they are dead when that hits them. Traps are cruel. They can drag a steel trap for two or three miles and gradually pull off a leg. They can drag a snare for as far as 15 miles. That is painful and inhumane."

The president was persuaded by the ecology movement to outlaw the cyanide gun last year.

"We are having meetings all over the state, in an effort to have the ban on the cyanide gun lifted," Edwards said.

"This is the most effective control of the coyote that we have found and we want it back. It does not kill other animals. It attracts only coyotes, by nature of its distinctive bait, and the small cyanide container explodes in the mouth, killing almost instantly. We've never known one to get over 30 feet when he gets one of these," Edwards explained.

"This loss in one night probably cost me over \$700. These lambs are bringing 44¢ a pound, and if I had kept them until weaning, about April 1, they would have weighed 100 pounds apiece," he said, "they were worth \$8 to \$10 now."

Holmstrom said, "Now some people are going to doubt that this was done by wolves, but every one of these was killed the way a wolf always kills; teeth marks on the head, then the sides ripped open and the liver and heart eaten out. We figure this many being killed in one night must have been by an old mamma wolf training her pups. A solitary male usually kills only one, just enough to satisfy his hunger."

The local ranchers are encouraging everybody who cares what is happening to them to help them in this effort to have the ban lifted on the cyanide. They urge the people to write to their United States senators and representatives.

It will take legislation to restore it, they believe, and individual letters will do more good than one letter signed by a lot of people.

"We know what we COULD do," one of the passing ranchers said, "but we don't dare, because the penalty for using the cyanide is the withdrawal of the trapper, and we can't afford to risk that."

"It was a pretty mournful awakening Sunday morning," Edwards said. "I heard those old mother sheep crying for their babies, such a lot of them, and I knew what had happened."

Edwards pays \$50 for every wolf his hunters kill on his ranch.

Mr. FOLEY. We welcome the Members of Congress to this subcommittee.

The next witness will be the Honorable G. William Whitehurst, a Member of Congress from the Commonwealth of Virginia.

Mr. Whitehurst, we are very happy to welcome you.

STATEMENT OF HON. G. WILLIAM WHITEHURST, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. FOLEY. In addition to the Chairman, Mr. Whitehurst has been, throughout his career in Congress, a very deeply interested and active supporter of animal welfare and protection.

Mr. WHITEHURST. I am grateful to you, Mr. Chairman, for those comments.

Mr. Chairman and distinguished members of the committee: I appreciate very much having this opportunity to testify in support of H.R. 1264 and the other bills which I have introduced to amend the Animal Welfare Act of 1970 to authorize the Secretary of Agriculture to regulate the conditions which prevail on common carriers and in their terminals with respect to the treatment of animals being transported. This committee is to be commended for scheduling these hearings to discuss possible solutions to the serious problems presented by the need for proper care of animals in transit by the Nation's common carriers. The members of this committee have, over the past several sessions of Congress, demonstrated their concern for the humane treatment of animals by drafting several animal welfare laws, thereby perpetuating the American tradition of protecting animals from inhumane treatment which began with a prohibition against cruelty to animals enacted by the Massachusetts Bay Colony in 1641.

Among the most important laws emanating from the agriculture committee have been the Laboratory Animal Welfare Act of 1966 and the Animal Welfare Act of 1970. The 1966 law empowered the Secretary of Agriculture to establish standards for the humane care and housing of animals used in research while in scientific institutions, on the premises of animal dealers, or in transit. The 1970 act, which I am proud to have sponsored, expanded the coverage of the law to include nonlaboratory animals transported, bought, sold, or exhibited for teaching purposes, for use as pets, or for exhibition in zoos, circuses, or carnivals. Unfortunately, this legislation specifically exempted common carriers from regulation, and the purpose of H.R. 1264 is to close this loophole, as well as another which I shall mention later.

Let me deal first with the matter of common carriers and their terminals. My concern over the treatment of animals in transit, particularly by the airlines, was prompted by scores of letters from my constituents and other citizens throughout the country, who have written to me describing the abuses which their pets have suffered at the hands of the airlines and other common carriers, both in transit and in the terminals. Many of these animals were seriously injured, and even death has resulted in a number of instances.

I know that many of my colleagues in the House and Senate have been moved by similar correspondence from constituents, as many Members have sponsored legislation to remedy this problem. Altogether, 24 Members of the House have agreed to cosponsor H.R. 1264, and Senator Weicker and a number of his colleagues in that body introduced a bill identical to mine shortly after H.R. 1264 was initiated.

In addition, the Special Studies Subcommittee of the Government Operations Committee, under the able direction of Congressman Floyd Hicks, held oversight hearings last fall to determine the severity of the problem of the treatment of animals in transit. The committee

did outstanding investigative work on this matter, and I commend the report of their findings to the members of this committee.

I am sure that you will hear from many experts during these hearings who will detail many of the specific problems in the transportation of animals. However, I would like to outline briefly some of the basic deficiencies in the current system which have led me to introduce H.R. 1264. Underlying the entire problem of animal mistreatment in air transportation is the fact that animals are considered cargo. The airlines process animals as general freight, and this has caused animals to be shipped in flimsy containers, left to endure long waits in heated or drafty terminals which contain no specific facilities for animals, and improperly stowed in airplane cargo compartments.

Studies have indicated that animals must contend with great fluctuations in temperature during long flights. Stowed in airplane cargo compartments, animals can be subjected to temperatures ranging from nearly freezing to 90 degrees Fahrenheit or more. In addition, these cargo compartments do not permit an adequate air flow, and consequently the animals suffer from the limited air circulation.

Another problem is that airlines do not provide shipping priority for animals. As a result, animals are rarely booked on direct flights and thereby must often sit for excessive periods of time in overheated or chilly terminals awaiting flight, many times in containers which are too small, and without adequate food, water or exercise.

Perhaps the most serious shortcoming of the existing system, and a major cause of death and injury to the animals, is the lack of any Government regulations covering the type of container used for animal shipments. Many animals are now shipped in containers which are easily crushed and splintered, and which provide little ventilation or room to maneuver. Indeed, animals are often crowded into far too small a space even to be able to lie down or turn around. Presently most commercial animals are shipped in what is essentially a modified lettuce crate known as the "Bruce" crate. Most veterinarians and others concerned with animal welfare believe that this crate does not meet reasonable container standards.

In many cases, the animals shipped are too young to travel well, and a large percentage die in transit. Further, some are not fully healthy when they are shipped, and latent or existing conditions are exacerbated.

Finally, when the animals reach the terminal to which they have been shipped, there is often a long wait before the consignee is notified of their arrival.

In an effort to reform these practices, several different legislative approaches have been proposed. A major point of contention among those who favor remedial legislation is the question of which Federal agency should take the lead in regulating the transportation of animals. The Department of Transportation, the Civil Aeronautics Board, the Federal Aviation Administration, and the Department of Agriculture all have their supporters. In my judgment, there is a need for coordination of effort among all of these agencies, as each has a special kind of expertise which can be brought to bear to contribute to the solution of this problem.

However, I strongly believe that the Department of Agriculture should have the primary regulatory responsibility. The USDA already

has the administrative machinery in place for carrying out a program of regulating the common carriers and their terminals and insuring animal welfare. This regulatory program would simply be added to Agriculture's existing responsibilities under the Laboratory Animal Welfare Act of 1966 and the Animal Welfare Act of 1970.

It makes little sense for USDA to regulate the treatment of animals up to the door of the terminal and then turn the responsibility over to another agency once the animals are inside the terminal. If dual jurisdiction is mandated by the Congress, I am convinced that the result would be a duplication of effort and bureaucratic infighting among the agencies involved.

An additional reason for placing the regulatory authority within the Agriculture Department is that, in my judgment, the USDA would be influenced to a lesser degree by the airlines or other common carriers than would such agencies at DOT, the CAB, and the FAA. The primary aim of the Department of Agriculture would be the protection of animals' welfare, which is, of course, the purpose of this legislation.

Let me now turn briefly to another aspect of H.R. 1264 which, although it has received less publicity, I believe is worthy of your consideration. The Animal Welfare Act of 1970 specifically exempted retail pet shops from regulation. While I feel that "hobby breeders" should receive specific exemption, many abuses take place in the pet shop chains or "puppy mills," which I believe we have a responsibility to try to correct. Thus I would strongly recommend that the 1970 act be amended by deleting the exclusion of retail pet stores and exempting only the "hobby breeders."

During the course of the hearings, I know that your committee will hear many heart-rending descriptions of the maltreatment of animals similar to those that I have heard. The lack of temperature control and inadequate air supply in baggage compartments; the use of inadequate, defective, or too-small crates in shipping the animals; the shipment of animals too young or too sick to travel successfully; long waits in terminals, in some case even without food, water, or exercise; and the general treatment of animals as if they were ordinary inanimate cargo all contribute to the inhumane conditions to which our pets are subjected by the airlines and other common carriers.

Many of these problems exist in or are caused by the pet dealers. These hearings will surely help to focus the attention of the Congress and the American people on the problems of animals in transit and elsewhere, and I sincerely hope that they will result in the passage of meaningful remedial legislation.

In a country such as ours, with an outstanding humanitarian tradition, we cannot allow the current inhumane treatment of our animals in transit to continue any longer. Let me respectfully urge the committee to report H.R. 1264 favorably to the full House.

Once again, Mr. Chairman, let me commend you for holding these hearings and for the fine record you have achieved in promoting the welfare of animals. Thank you for giving me the opportunity to present this testimony.

Mr. FOLEY. Thank you very much, Mr. Whitehurst. Your statement is an excellent one, and I know it will have an influence on the members of this committee as they consider the various legislative proposals before us.

Are there any questions of Mr. Whitehurst?

Mr. Sebelius?

Mr. SEBELIUS. I got here late, and I do not have any questions at this time. However, I will discuss the testimony with Mr. Whitehurst in detail later.

Mr. FOLEY. Again Mr. Whitehurst, I think it is known to all of those in the audience who have followed the course of animal protection legislation in recent years, that you have been in the forefront of efforts to obtain better and closer supervision by the Government of those conditions under which animals are raised, transported, and used in research and experimentation. Certainly few in Congress can match your consistent interest in this area; and we are very happy to have you come before the subcommittee.

Mr. WHITEHURST. I thank you, Mr. Chairman.

[Mr. Whitehurst submitted the following:]

UNIVERSITY OF SOUTHERN CALIFORNIA,
Los Angeles, Calif., July 9, 1974.

Representative WHITEHURST,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN WHITEHURST: As Director of the University of Southern California Vivarium and as a member of 1) The Laboratory Animal Transportation Committee of the American Society of Laboratory Animal Practitioners and, 2) as Chairman of the California Veterinary Medical Association Environmental Health and Ecology Committee and 3) Chairman of the Medical Research Association of California Legislation Committee, I would like to register my findings regarding the air transportation of animals.

The large shipping containers that the aircraft industry use are approximately 60 cubic feet and, when as is the custom the cargo container is $\frac{1}{4}$ full of cargo, it will hold 3 large dogs or an equivalent of smaller animals. It seems undesirable to me to house animals in a cargo container which is partially filled with other merchandise. I think the practice of shipping animals in the same container as cargo should be eliminated.

I was very fortunate in being able to contact two persons within the aircraft industry who were willing to discuss air transportation of animals with me. One of these people was an aircraft engineer and I learned the following facts:

1. Present compartment where animals are shipped is the "D" compartment. A "D" compartment on a DC-10 has an air exchange of 10,000 cubic feet per hour. This air exchange is required for the safety of the aircraft and must be pressurized to prevent collapse of the hull.

2. There is no adequate control of the environmental conditions for the animals. No cooling is provided in any of the "D" compartments which are currently in existence.

3. "D" compartment in the DC-8 has no air exchange at all, only air trapped within the compartment or unplanned leakage to the outside and into the "D" compartment from the cabin.

It is my understanding that the aircraft industry is suggesting that animals be moved from the "D" compartment on the "C" class compartment. A "C" class compartment is slightly better than the "D" as far as environmental conditions are concerned in that, on the 747 for example, the "C" compartment has an air exchange of 5,000 to 35,000 cubic feet per hour. Again, this is dependent on altitude and heat and is required for aircraft safety and has nothing to do with comfort of the animals. Neither "C" or "D" compartments were designed to provide environmental conditions adequate for animals in transportation. So, if we move a large 60 cubic foot shipping container from a "D" to "C" type compartment and house animals within the compartment, we have restricted airflow even further as these containers have no forced ventilation and only small ventilation ports above and below.

In addition to the condition mentioned above, one serious problem of both "C" and "D" compartments is that, during periods of emergency on the aircraft, all oxygen is cut off except to the closed systems in two compartments, for passengers and crew. These are closed systems, therefore, when this emergency occurs all

animals on board this aircraft in "C" or "D" compartment must die for lack of oxygen.

It seems obvious to me, and I have discussed this with the aircraft engineer who also agrees that it is feasible, that the large 60 foot cargo container be converted to animal use by piping "E" type passenger environment into the cargo container which will be located within the "C" compartment. The aircraft engineer indicated that the conversion cost would be somewhere between \$5,000 to \$10,000 per aircraft which seems like a very small figure in light of the astronomical cost of these aircraft.

If this "C" compartment were converted to allow "E" type passenger environment to be piped into the converted cargo containers where the animals are located, the animals would benefit in the following ways:

1. Temperature and pressure regulated.
2. Proper air exchange.
3. No oxygen cut off during emergencies.
4. No unscheduled shifting of other cargo which might injure or kill.

I hope that you find this information of value to your committee. I will be glad to go to my source for additional information if your committee feels it desirable.

Sincerely,

WILLIAM M. BLACKMORE, D.V.M.,
Director—Vivaria.

Mr. FOLEY. The next witness will be Dr. F. J. Mulhern, Administrator of the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

STATEMENT OF DR. F. J. MULHERN, ADMINISTRATOR, ANIMAL AND PLANT HEALTH INSPECTION SERVICE, U.S. DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY DR. B. C. SWINDLE, SENIOR STAFF VETERINARIAN, ANIMAL CARE STAFF, APHIS

Mr. FOLEY. Dr. Mulhern, would you like to introduce your associate?

Dr. MULHERN. Thank you.

Mr. Chairman, on my left is Dr. B. C. Swindle, who is the chief staff officer for animal care in the Animal and Plant Health Inspection Service.

I appreciate this opportunity to express the views of the Department of Agriculture on H.R. 15843, a bill to amend the Animal Welfare Act to assure humane treatment of certain animals and livestock in transportation.

Since 1966, this Department has been responsible for administration of the Animal Welfare Act, which has the objective of assuring humane care and treatment of certain animals intended for use in research facilities, for exhibition, or for use as pets. Our activities under the act include licensing or registering some 7,000 dealers, exhibitors, operators of auction sales, and research facilities. These persons must meet standards of animal care set by the Department and enforced through regular inspections, action on violations, and review of reports on experimentation using animals.

The present Animal Welfare Act does not provide us with jurisdiction over common carriers and other handlers of these animals in transportation who are not otherwise covered by the act. Livestock are generally excluded from coverage. However, in the course of our inspection and enforcement activities, we have become aware of incidents of inhumane treatment of protected animals and livestock in

transportation. Inhumane treatment is offensive to our sense of ethics. Such incidents often result as well in economic loss to buyers, sellers, and owners of live animals, and to the American consumer. We agree that such problems should be addressed.

Based on our experience in enforcing the Animal Welfare Act, and other statutes, it appears to us that most instances of inhumane treatment of animals and livestock in transit are caused by lack of knowledge as to their needs, equipment failures, and careless disregard on the part of individuals. We believe there is a need for corrective action to upgrade the ability of shippers, carriers, and other handlers to use proper procedures to prevent and avoid the kinds of occurrences that have prompted introduction of such legislation as H.R. 15843, but this corrective action need not necessarily be legislative.

The bill would amend the Animal Welfare Act to give the U.S. Department of Agriculture responsibility and authority to regulate the activities of common carriers and intermediate handlers in connection with transportation of such animals and livestock. We believe that this kind of solution—regulation by the Federal Government—is premature. It has been the experience of those in the Agriculture Department engaged in regulatory work that it is not necessarily effective to quickly move to additional Federal regulation and expenditure of Federal funds when the problem to be solved is basically a matter of public conscience.

Expanded Government authority should come only as a last resort after it has clearly been determined that the private sector cannot or will not satisfactorily solve the problem. We believe that at this time the transportation industry and nongovernmental public groups interested in animal welfare have not yet exhausted opportunities for cooperative efforts to solve the problem of inhumane treatment of animals in transportation.

A focal point for private activity in this area might be found in the Interagency Committee on Live Animal Transportation being formed at the recommendation of the House Committee on Government Operations. The Committee will be comprised of representatives of the Federal Aviation Administration, the Civil Aeronautics Board, and the Department of Agriculture. When this Committee was suggested by the Hicks subcommittee, it was intended to cover only air transportation of animals. We suggest that its charge be broadened to include other means of transportation, and that its membership be expanded to include all transportation regulatory agencies such as the Interstate Commerce Commission. The Committee can undertake to provide information and guidance to the transportation industry and humane organizations as they work toward corrective action.

Should it be considered necessary at some future time to establish Federal Government regulations in this area, consideration should be given to placing the responsibility in one of the several agencies which are already involved in regulating the transportation industry. We believe it would be more economical and in the interests of sound management for the present transportation regulatory agencies to consult with our veterinary experts on animal care, than it would be for the Department of Agriculture to become expert in trucking, air cargo handling, or other aspects of the transportation industry.

Mr. Chairman, when these hearings were announced, the subcommittee staff sent us a list of questions on the administration of the Animal Welfare Act and asked us to provide answers during our testimony. Since our answers are quite lengthy, we would like to submit them in writing for the record.

I shall be glad to answer any questions you and the subcommittee might have.

Mr. FOLEY. Thank you.

Without objection, the staff questions may be submitted by the Department in writing.

Are there any questions of Dr. Mulhern or Dr. Swindle?

Mr. Bergland?

Mr. BERGLAND. Thank you, Mr. Chairman.

Dr. Mulhern, have you been in contact with any of the regulatory agencies governing transportation about this matter of animal health and safety?

Dr. MULHERN. Yes; after the oversight hearings that were held about a year ago there were two meetings with CAB representatives and FAA and Department of Agriculture, and after those hearings one of their recommendations was that we set up the Interagency Committee that we referred to in the testimony. This Committee, though, has not met yet. We have had discussions back and forth, and it has been agreed that USDA should take the leadership in getting the Interagency Committee operative, and we have started making plans for the first meeting of the Committee.

Mr. BERGLAND. When?

Mr. SWINDLE. In early fall.

Dr. MULHERN. We are expecting it sometime in the fall.

Mr. BERGLAND. So as of this time there has been no action taken to implement or develop any kind of policy?

Dr. MULHERN. That is right.

Mr. BERGLAND. Is anything likely to happen?

Dr. MULHERN. Well, we definitely feel that the Government Operations Committee also went on record that we should establish standards to apply to crating, and so forth, and that this would be the first objective that the Interagency Committee would have to establish those standards.

Mr. BERGLAND. Once those standards are established, does this committee have any authority to impose them or enforce them, or are they simply to guide and direct and suggest?

Dr. MULHERN. At this time that is all it would be, a guide to the agencies that have more or less committed themselves to deal with the problem.

Mr. BERGLAND. Do the agencies which would accept the recommendations of this committee have statutory authority to enforce them?

Dr. MULHERN. I do not know.

Mr. FOLEY. If the gentlemen would yield—

Mr. BERGLAND. Certainly.

Mr. FOLEY. The usual policy of the committee is to hear most of the witnesses and to have questions afterward. The next witnesses are representatives of the Civil Aeronautics Board. Perhaps if Dr. Mulhern and Dr. Swindle could wait until the conclusion of testimony by

Civil Aeronautics Board, we could then bring the Department and the CAB witnesses back together for questioning.

Doctors, thank you very much.

[Answers by the Department to subcommittee questions follow:]

U.S. DEPARTMENT OF AGRICULTURE ANSWERS TO QUESTIONS SUBMITTED BY THE
SUBCOMMITTEE

Question. How many veterinarians and technicians work for APHIS?

Answer. There are 2,068 veterinarians and 8,293 technicians and inspectors working for APHIS. Of these, 640 veterinarians and 798 technicians and inspectors are employed by Veterinary Services, of which 376 veterinarians and 708 technicians and inspectors are involved in field work, including the Animal Welfare Program.

Question. Please provide a complete regional breakdown and the justification for it, including the priorities used to determine these assignments.

Answer.

VETERINARY SERVICES FIELD EMPLOYEES

Region	Veterinarians	Inspectors	Total
Northeast.....	89	119	203
Southeast.....	120	195	315
South Central.....	60	275	335
North Central.....	61	80	141
Western.....	46	39	85
Total.....	376	708	1,084

The number of veterinarians, livestock inspectors, or technicians assigned to any particular region, area, or State, depends on a number of factors such as: livestock population, size of area, number of projects involved, and the progress of the various disease programs.

Question. How many veterinarians and how many technicians are involved in the enforcement of the Animal Welfare Act?

Twenty-five veterinary man-years and 35 inspector man-years are devoted to the Animal Welfare Program in the field.

Question. Discuss the background and experience of these veterinarians and technicians.

Answer. All veterinarians have a minimum of six years of college education. Two years of pre-vet and four years of veterinary medicine are required for the D.V.M. degree from a recognized school of veterinary medicine. Most veterinary employees of APHIS' Veterinary Services program have practiced at least one year in small or large animal practices, and on entering Federal service, are eligible for a GS-11. Graduate veterinarians with less experience may enter as a GS-9.

Minimum qualifications for a livestock inspector include: experience in raising and handling livestock or other activities which provide a thorough familiarity with livestock or indicate a knowledge of livestock diseases; or experience as livestock regulatory inspectors or federal, State, or municipal law enforcement or investigative experience. High school graduates who have studied biological sciences may also qualify.

Question. How many of these have gone through the special training courses on the Animal Welfare Act that APHIS has offered?

Answer. Since 1967, approximately 800 employees have received formal training in enforcement of the Act, as well as on-the-job experience.

Question. Eight training courses were held in 1973 on the Animal Welfare Act. How long did they last, who taught them, and what was the basic emphasis of the curriculum?

Answer. These courses lasted 2½ to 3 days. They were taught by members of the Animal Care Staff, and various industry, humane, university, and nationally recognized authorities in their respective fields. The basic emphasis of the curriculum was on familiarization with regulations, policies, and procedures, and later with national uniformity compliance and enforcement.

Question. How many courses have been offered so far in 1974, and how many have attended them?

Answer. Two training courses have been offered so far in 1974. Training was offered to 90 participants, but due to emergency disease outbreaks only 76 were able to attend. Two more courses are scheduled for the remainder of calendar 1974 for 90 additional employees.

Question. What percentage of your Animal Welfare budget was allocated for these courses?

Answer. Approximately two percent. We are restricted by the availability of funds and time available for participants to attend training courses. Additional training is needed to obtain national uniformity in compliance and enforcement of this program.

Question. About what percentage of the man-hours spent by your field force in inspection was directly related to Animal Welfare Act enforcement?

Answer. In fiscal year 1974, about 4 percent of Veterinary Services' man-hours and approximately 5½ percent of the appropriation for VS programs were spent on Animal Welfare Act enforcement.

Question. When dealers and exhibitors are licensed and research facilities registered, are they given a preliminary inspection by APHIS inspectors?

Answer. Yes.

Question. What do these prelicensing inspections involve?

These prelicensing inspections involve a complete examination of the business operation—what the applicant does now, and what he plans to do when he is licensed or registered. It involves a complete inspection of all facilities, equipment, and operations. Only if the applicant meets all of the requirements in the standards and regulations will he be licensed or registered.

When a person or business wants to become licensed, or when the Department has reason to believe that he meets the definition of a dealer in section 2(f) of the Act, he must make application to the Area Veterinarian in Charge. Then a veterinarian, animal health technician, or qualified livestock inspector visits the premises of the applicant. First he discusses with the owner the nature of the operation—the kind of animals, whether he breeds or raises, buys or sells, trades or leases. The owner is asked whether he disposes of the animals in other ways for compensation, and whether he is a broker.

Then the buildings and housing are inspected to see that they are structurally sound and safe and adequate to protect and shelter the animals, to contain them, and to keep out predators. An adequate water supply and, if necessary, electric power, are required. Storage facilities for feed and bedding, and refrigeration for perishable foods must be provided. Disposal facilities for excreta, food wastes, bedding, dead animals, and debris must also be provided, and should be free of odors, vermin, and disease hazards. Indoor housing facilities (e.g. for dogs and cats) should be heated when necessary to assure a temperature of not less than 50° F. (except for acclimated dogs and cats).

Other factors which could affect the health of animals are checked, for example, ventilation, lighting, interior surfaces which must be easily cleaned, and proper drainage.

Outdoors, the animals must be sheltered from extreme heat and cold, rain, and snow. Cages, runs, and enclosures are examined to see that they do not injure the animal by splinters, nails, or broken wire, and that floors do not sore or cut their feet. Cats require such other facilities as resting boards on solid floors and litter boxes.

The inspector also looks for evidence of crowding. Dogs and cats must have adequate space to stand, sit, lie, and turn around comfortably. A minimum square footage of floor space must be provided, based on the size of the dog or cat. If dogs are chained, a minimum safe length of chain is specified in the regulations.

Dogs and cats must be adequately and properly fed in clean receptacles. Good clean water must be available at least twice a day.

Housekeeping practices are also checked, including the cleaning and sanitation of cages, floors, and walls. The inspector looks for piles of debris or trash where rats, vermin, insects, and other pests may thrive.

The number of employees must be adequate for efficient operation of the business, and they should have the necessary training.

Incompatible animals must be separated. Programs of disease control must be provided under the supervision of a veterinarian. Sick, diseased, injured, lame, or blind animals must be given veterinary care, or euthanized.

The applicant's vehicles are examined to see if they are free of defects which could injure animals, such as exhaust gases and excessive heat or cold. Cages or containers in which animals are to be shipped must be safe and adequate in size. Feed and water must be available in vehicles—feed every 24 hours for dogs and cats, and water every 12 hours. Dogs confined for a period of more than 36 hours in a vehicle must be removed for fresh water and exercise.

Dealers in other animals covered by the Act must comply with similar standards.

Question. How many preclicensing inspections were done in 1973, and how many have been performed in 1974?

In calendar 1973, 3,501 preclicensing inspections were made, and 1,955 have been conducted in the first half of 1974.

Question. What percentage of the preclicensing inspections uncover discrepancies with USDA regulations?

Answer. No firm figures are available, but most do not qualify for licensing or registration on the first inspection. Many require two or more inspections.

Question. How many dealers and exhibitors have been denied licenses because preclicensing inspections have uncovered violations of USDA animal welfare regulations?

Answer. No firm figures are available. Few comply on the first inspection. If standards are not met within the period of time allowed by the regulations, the dealer or exhibitor will be charged with a violation.

Question. Do you obligate them to meet standards of humane care to animals before you register them?

Answer. Yes.

Question. If so, is their compliance with regulations ascertained through a preregistration visit?

Answer. Yes.

Question. What is the average length of a preregistration visit and what specific criteria are used by the inspector in making recommendations?

Answer. For research facilities, the average preregistration visit is about six to eight hours in length. However, more time is spent at those facilities where the inspector has found problems and where improvement is needed.

Criteria are based on the Animal Welfare Act and the regulations and standards promulgated under it, as discussed in our answer to question 5-B.

Question. Once licensed, how often are licensed facilities visited by inspectors on an average?

Answer. At present, inspections are limited to two per year per premise.

Question. Once registered, on an average how often are research facilities visited by inspectors?

Answer. Twice per year. Availability of funds and manpower restrict our coverage of these facilities.

Question. How much time is usually taken on these inspections?

Answer. Inspection time varies approximately from six to eight hours, depending on the size of the facility and the travel involved.

Question. How many times a year is a facility inspected?

Answer. Twice a year.

Question. Is the licensee notified prior to the visit?

Answer. No.

Question. Have you had to decrease the number of such inspections over the years? Why?

Answer. Yes. Available funds have not increased at the same rate as the number of licensees and registrants.

Question. Please discuss what percentage of your budget is allocated for such visits.

Answer. Approximately 66 percent of the funds allocated for field use are for inspections.

Question. Do you believe that you have been able to license all of the dealers, exhibitors, and research facilities covered by present law?

Answer. No. Veterinary Services' first priority is to protect the Nation's food supply through animal disease eradication programs. During fiscal year 1974, disease emergencies such as hog cholera and Newcastle disease of poultry, required over 50 man-years of work by more than 100 employees.

Ongoing disease eradication programs involve such diseases as brucellosis and tuberculosis. All these have priority over animal welfare activities in the allocation of funds and personnel.

Question. Approximately how many airport inspections were made by APHIS in 1974 so far? What percentage of total inspections do the airport inspections represent?

Answer. Since January, 150 airport inspections have been conducted, representing about 2 percent of total inspections.

Question. Approximately how many animals have been destroyed by inspectors or confiscated because they were found suffering as a result of failure to comply with the standards of humane handling?

Answer. None. In several instances when it was necessary to provide relief to animals involved in apparent violations, local humane societies stepped in to take effective action. In at least one case, APHIS immediately suspended a violator's license and obtained a cease and desist order, while the humane society continued to press legal action it had already instituted.

Question. Could you make a general statement about who of the licensees have been the greatest offenders?

Answer. Prior to 1974, we had more violations reported involving Class B licensed dealers. However, since we began airport inspections, most violations reported involved pet type animals in transit.

(A Class A dealer is one whose business involving animals includes only animals that he breeds and raises as a closed or stable colony, and animals he acquires only to maintain or enhance his breeding colony. A Class B dealer is one who does not meet the definition of a Class A dealer. For example, a Class B dealer purchases animals for resale. Of approximately 5,000 licensed dealers, 75% are Class A and 25% are Class B.)

Question. How many instances of forcible resistance to the inspections of your field force have occurred and have there been any prosecutions under the Animal Welfare Act?

Answer. There have been at least two occasions on which our inspectors were denied access to official records and felt they were in danger of bodily harm. In one case it was necessary to obtain the assistance of a United States Marshal. In the other, the withheld records were subpoenaed. They have not yet been produced, so we have proceeded to treat this situation as a violation of the Act.

We have had several other reports of attempted intimidation and threats of bodily harm to our personnel. However, we do not have legislative authority to take action against persons who interfere with or threaten inspectors.

Question. Do you believe that the procedures for enforcing the present civil penalties should be changed?

Answer. Yes. We believe more effective enforcement of the Act would result from a change giving the Secretary authority to assess civil penalties through administrative actions.

Question. How are the fees for licensing structured? How much are they?

Answer. The amount of license fees is based on the gross dollar amount derived from the sale of animals. The present fee schedule is as follows:

TOTAL GROSS DOLLAR AMOUNT

Amount	Fee	
	Class A dealer	Class B dealer
\$0 to \$500.....	\$5	\$5
\$500 to \$2,000.....	15	15
\$2,000 to \$10,000.....	25	50
\$10,000 to \$25,000.....	100	200
\$25,000 to \$50,000.....	150	300
\$50,000 to \$100,000.....	200	500
\$100,000.....	250	750

Effective September 4, 1974, the fee schedule for Class A dealers will be based on 50% of total gross sale of animals.

The new fee schedule for Class B dealers will be based on the total dollar business derived from the sale of animals less their purchase price (the difference between the sale price and the purchase price).

	Fee
\$0 to \$500.....	\$0
\$50 to \$2,000.....	15
\$2,000 to \$10,000.....	25
\$10,000 to \$25,000.....	100
\$25,000 to \$50,000.....	200
\$50,000 to \$100,000.....	300
\$100,000.....	500

Question. How much money was collected by FY 1973 and FY 1974 through the fees for licensing?

Answer. In fiscal year 1973, \$144,336 was collected. In fiscal year 1974, \$181,756 was collected.

Question. What were the estimated expenditures on enforcement of the Animal Welfare Act during the years the Act has been in effect? What appropriations have you received since enactment and have they all been allocated and used?

Answer.

Fiscal year	Appropriations	Obligations
1967-----	\$325,000	\$317,932
1968-----	306,100	305,783
1969-----	316,700	317,991
1970-----	337,700	336,146
1971-----	358,700	¹ 1,090,009
1972-----	1,221,300	¹ 1,514,255
1973-----	2,242,300	2,185,034
1974-----	2,350,900	² 2,331,000

¹ Includes redirection of funds from other projects.

² Latest estimate of 1974 obligations.

All funds have been allocated and used except in the last two years. Some of the animal welfare funds were used in administering the Horse Protection Act.

Question. The Animal Welfare Act requires that the annual report to Congress on USDA enforcement of the Act be submitted to Congress by the end of March every year. Could you please discuss some of the problems you have had in submitting this report on time?

Answer. In order to meet the statutory March 31 deadline, we must require that research facilities submit their reports to us by February 1. Most research facilities are unable to meet this deadline since the information needed is not available for tabulation until the end of the previous calendar year.

In addition, we have found that it takes at least three months for Department review, preparation, approval of the annual report and report.

Question. Could you please discuss the growth of the pet industry and the effect this growth has had on your ability to enforce the present Act?

Answer. From 1971 to 1974, the pet population of this country increased from 46 million animals to 177 million. Of the 1974 estimate, there were 36 million dogs and 26 million cats.

As a result of the 1970 amendments to the Animal Welfare Act, the number of licensed dealers increased from 210 to over 5,000 at the present time. Most of this increase has been in the pet dog and cat industry.

The great increase in the pet population has also resulted in a significant increase in the number of pounds, abandoned animals in pounds, and shelters (public and private) which are presently not covered by the Act.

Question. An interagency committee of the USDA, CAB, and the FAA has been formed to make recommendations for regulations in the area of air transportation of animals. What has been USDA's role in this interagency committee? What recommendations or conclusions has the committee reached?

Answer. Officials of the FAA and APHIS' Animal Care Staff have held informal meetings preliminary to the organization of the interagency committee. Matters discussed included the division of responsibility for setting standards, and what the standards should cover.

In letters to the Chairman of the Civil Aeronautics Board and the Secretary of Transportation, this Department recommended that the interagency committee be charged with responsibility to:

"1. Develop standards for animal shipping containers, taking consideration such factors as structural durability, ventilation and size requirements of various animals, and the environmental needs for animals being shipped by air. Such standards could then be assimilated into current regulations and standards under the specific authorities of the three agencies.

"2. Provide input and consultation to assist the respective agencies in implementing the recommendations made by House Report No. 93-746.

"3. Study the flow of animal traffic at various airports and determine if there are Federal authorities available to require the establishment of special animal

handling facilities such as animal-ports where such need was deemed necessary by the study.

"4. Consult with other Federal departments and agencies which could provide expertise and knowledge in carrying out the objectives of the interagency committee."

Question. Has the USDA been involved in, or consulted with, in the preliminary CAB hearings on animal tariffs?

Answer. Yes.

Question. What has been the scope of the USDA involvement in those hearings?

Answer. Staff members have participated in work groups regarding transportation, health certificates, and packaging of animals in air transportation.

Question. What recommendations has the USDA made to the CAB in those hearings?

Answer. We have commented on the proposed standards regarding animals in air transportation.

Question. Justification statements filed by research laboratories for pain inducing experiments without pain relieving drugs are reviewed by APHIS' Animal Care Staff. What does this involve? Are inspectors normally present when painful experiments without the use of drugs are undertaken?

Answer. During calendar year 1973, there were 19,336 experiments reported involving pain or distress. Of these, approximately 90% involved testing of products as required by the Hazardous Substances Labeling Act, the Federal Insecticide, Fungicide and Rodenticide Act, and the Federal Food, Drug and Cosmetic Act. Analgesics, tranquilizers, or anesthetics are prohibited because of the masking effect these drugs would have on the reaction of the animal to the tested product.

This review involves close examination of the annual report submitted to determine whether or not it is true and factual. In cases where we have doubts about a report submitted by a research facility, a veterinarian is requested to investigate. Normally inspectors are not present when experiments are conducted.

Question. Four thousand inquiries from the public were reported in 1973. What do the bulk of these inquiries involve?

Answer. Over 2,000 letters were received by the Department in regard to space and exercise, and over 700 were received regarding the use of beagles for research by the Air Force. The Department received and answered approximately 400 Congressional letters regarding the Animal Welfare Act during calendar year 1973.

Question. Has APHIS had any difficulties in hiring the needed number of veterinarians for inspection work? How do salaries offered by APHIS compare with average veterinarian salaries?

Answer. Yes, the main obstacle has been due to personnel ceilings and priority assigned to activity. Ninety percent of graduates go into practice because the potential for higher income is in that area of veterinary medicine.

The average incomes of veterinarians in private practice, and veterinarians employed by APHIS are:

AVERAGE SALARY PAID VETERINARIANS

Years of service	Private practice ¹	APHIS
0 to 6	\$21, 830	\$17, 717
7 to 12	30, 100	19, 284
13 to 21	30, 190	20, 709
22 and over		21, 649
Overall		19, 880

¹ Estimates as of October 1, 1973.

Mr. FOLEY. The next witness is Mr. Robert Sherer, the Director of the Bureau of Economics of the Civil Aeronautics Board, Washington, D.C., accompanied by Mr. Bradford Smith.

STATEMENT OF ROBERT J. SHERER, DIRECTOR, BUREAU OF ECONOMICS, CIVIL AERONAUTICS BOARD, ACCOMPANIED BY BRADFORD SMITH, SPECIAL ASSISTANT FOR PROJECT DEVELOPMENT, BUREAU OF ECONOMICS, CAB

Mr. FOLEY. Mr. Sherer, we are very happy to have you before our subcommittee, and we appreciate your appearing.

Mr. SHERER. I have a brief statement. If it is the pleasure of the chairman, I shall read it for the record.

Mr. FOLEY. Yes, I think it will be helpful.

Mr. SHERER. Mr. Chairman and members of the subcommittee, I appreciate the opportunity to appear today to discuss H.R. 15843, Animal Welfare Act Amendments of 1974. Accompanying me today is Mr. Bradford H. Smith, Special Assistant for Project Development of the Bureau of Economics.

The principal purpose of the bill is to remove the exemption that exists for common carriers in section 2143 of title 7 of the United States Code with respect to the transportation of certain animals intended for use in research facilities or for exhibition purposes or for use as pets. It would thereby bring common carriers, in their transportation of certain animals, under the Animal Welfare Act and subject to regulation by the Secretary of Agriculture.

The Board's primary interest in the air transportation of animals is an economic one. Under section 404 of the Federal Aviation Act, the air carriers are required to provide safe and adequate service, equipment, and facilities in connection with air transportation. Section 1002 of the Federal Aviation Act vests the Board with authority over air carrier tariffs, which shall contain just and reasonable rates, rules, regulations and practices observed in carriage.

Although it may be argued that the Board has the power under the cited provisions to require air carriers to establish, publish, and adhere to standards considered desirable for the humane treatment of animals, the Board lacks expertise in this area. There are essentially two principal areas of concern in handling of animals, which are:

One, the packaging and ground handling, and;

Two, the airborne stowage and environment.

As to the first area, wide differences of opinion may be found as to terms and conditions of acceptance, safe packaging, ground environment and feeding, watering and care. In regard to the airborne journey, the safe stowage and climatic conditions pose highly technical problems, which are largely in the province of the FAA.

Since 1968, the Board has conducted four separate rate investigations having a direct bearing on the transportation of animals. In the course of those investigations, our lack of expertise with respect to live animals became increasingly obvious.

For example, in a recent case, pages and pages of graphs were introduced as evidence by an air carrier showing the basal metabolic levels and British thermal units given off by baby chicks, dogs, cats, and other animals. The purpose of these exhibits was to show the maximum number of each type of animal that could be safely carried in the belly of an aircraft. While the Board clearly recognizes the

problems in this regard, our staff is simply not trained to evaluate exhibits such as these.

The Board is presently conducting a new investigation, in docket 26310, of the rules and practices relating to the carriage of live animals in domestic air freight transportation. Whereas our previous investigations focused largely on the rates carriers would charge for transporting live animals, we are attempting in this new case to look directly at the rules and practices themselves.

The investigation will be a broad one, and will focus on the carriers' rules with respect to acceptance, packaging, documentation, health certification, care and handling at terminals, pickup and delivery services, and priority of carriage to be given to live animal shipments. We have great hopes that this investigation will be successful in promulgating tariff rules insuring safe transportation of animals. However, our main stumbling block is, once again, our lack of expertise in the area of animal welfare.

If there is a need for additional regulation in the transportation of live animals by air, the Board believes it would be desirable to expand the existing regulatory authority of the Secretary of Agriculture along the lines of H.R. 15843. The Department of Agriculture, with its staff of veterinarians, is in the best position to promulgate the specific regulations which may be necessary.

The Board suggests, however, that the legislation be amended to require that the Secretary of Agriculture consult with the Board prior to promulgating standards governing such transportation or facilities required in connection therewith, in order to avoid the possibility of conflicting regulations.

Mr. Smith and I will undertake to answer any questions which the members of the subcommittee may have regarding the curved regulation of live animal shipments in air transportation.

Mr. FOLEY. Thank you very much, Mr. Sherer.

If you and Mr. Smith could remain at the witness table, I will ask Dr. Mulhern and Dr. Swindle to join you. The reason I interrupted my colleague's questions was that I thought perhaps Mr. Sherer and Mr. Smith might be better able to answer the question as to whether regulatory authority existed either in the CAB or the FAA to enforce any agreed regulations or guidelines which the Interagency Committee might adopt. Perhaps you could address yourself to that particular question, Mr. Sherer. Mr. Bergland was interested in knowing to what extent the CAB has authority to implement agreed upon regulations or guidelines issued by the Interagency Committee.

Mr. SMITH. Well, Mr. Chairman, I think you could divide our authority into two areas. If you are speaking of a determination by the Board as to something that affects the price, what it is the customer gets for his money or does not get, I doubt that the Board could enforce any such finding unless it first concluded an evidentiary hearing and found that something the carriers are doing or are not doing was unlawful. And as I understand our authority, only then could the Board impose a new way of life.

The easier side of the coin would be in the area of practices. For example, documentation. Suppose we were to decide that it would be advisable for every shipper to give some sort of a certificate to the carrier as to the age of the animal or the sex or the make, model. I

think under administrative procedures we would have authority to enforce that and establish it by rulemaking.

So you have got to divide your problem into those two spheres, as I see it.

Mr. BERGLAND. Thank you very much, Mr. Chairman.

Mr. Sherer, you have testified to the investigation entitled docket 26310. You are attempting by this means to inquire into this whole general area, as I understand.

Is your authority limited to ratemaking only?

Mr. SHERER. No, sir. We have taken the position from a bureau point of view that under section 404 of the Federal Aviation Act, which uses the language, "It shall be the duty of every air carrier to provide"—and, skipping down—"safe and adequate service, equipment and facilities in connection with such transportation," that the safety here of the shipments of animals may very well fall in the province of the Board. This is being challenged, however, by certain participants in the hearings, and it will no doubt continue to be challenged until the conclusion of this proceeding, and perhaps there is always the potential of court review being sought of the Board decision if it contends that it does have this authority. Generally speaking, under the Aviation Act the Administrator of the Federal Aviation or the Secretary of the Department of Transportation are charged with all matters of air safety. This one happens to come in under rates for carriage, the economic division. But it does include that peculiar language.

Mr. BERGLAND. Dr. Mulhern, Mr. Sherer has indicated that the Board lacks certain expertise in this whole field of animal health and safety.

Does the USDA have that expertise?

Dr. MULHERN. We have the expertise as far as our administration of the present Animal Welfare Act is concerned. The expertise that he was referring to on metabolism rates and so forth, all of this is going to have to be developed. There is a lot that applies to movement of animals that we will have to develop by working, perhaps with the Air Force, and with others who may have done some research in this area. There are going to be specific areas, I think, where study will be needed in order to come up with standards. It is going to be necessary to do work similar to what we did with the research establishments and the dealers. But these were not as complex problems as we are going to experience in the area of air transportation.

Mr. BERGLAND. But you do have access to the resources that would be able to pull together the information and knowledge sought?

Dr. MULHERN. Yes, sir.

Mr. BERGLAND. Thank you very much.

That is all, Mr. Chairman.

Mr. SEBELIUS. I have a couple of questions from sort of a practical approach, Mr. Chairman.

At the present time I see crates of dogs loaded on Frontier out in Kansas, and it usually travels on about 5,000 or 6,000 feet to Kansas City; I do not know if they go by jet onto Chicago or otherwise.

But do you have any regulations at all on what they can haul and how they are handled?

Mr. SHERER. At the present time they are controlled by their own tariff provisions which include shipment of live animals.

Mr. SEBELIUS. Is that optional with the airline itself? They do not have to accept dogs?

Mr. SHERER. No, sir. They provide transportation in the needs of the public, which would include animal transportation if the aircraft is of sufficient size to carry them, obviously. There are some large animals that could not be carried, but the kind of animals we are addressing here are all capable of being carried by air, and they are obligated to carry them, and they may not embargo the carriage of them unless there is some unusual, short-term situation that arises, some equipment problems that would endanger the lives of the animals.

Mr. SEBELIUS. What I am basically getting at, would the hold or the luggage section of a 580 traveling at say 7,000 feet accommodate the same freight and the same animal as the hold of a jet going at 35,000 feet?

Mr. SHERER. Generally speaking the size would not be a problem, yes, sir.

Mr. SEBELIUS. Is the freight hold or luggage compartment of either one of those pressurized?

Mr. SHERER. Yes, they are pressurized just to certain limits. Now we are getting into this area where we lack the expertise and where the Federal Aviation Administration outranks either the Department of Agriculture or the CAB.

Mr. SEBELIUS. So actually the shipper, other than their own personal investigation, would not know what to provide to make sure that this animal would be transported comfortably, say, from Hays, Kans. to Chicago, Ill.

Mr. SHERER. Well, he would simply know that animals are being shipped regularly on Convair 580's and that there are fairly good life sustaining systems on that aircraft. There has not been any unusual amount.

Mr. SEBELIUS. There is no provision that says you require or the USDA requires some form of water container, some form of food be provided for a certain reasonable period of time.

In other words, we are really in a void as to getting some assurance to the shipping public and receiving public in this very field.

Mr. FOLEY. Would the gentleman yield?

Mr. SEBELIUS. Yes.

Mr. FOLEY. It is true that the only burden on the carrier currently is a contract to safely deliver the cargo?

Mr. SHERER. Yes, in line with his tariff provisions, he undertakes the safe carriage of whatever the cargo shipment may be.

Mr. FOLEY. Would possible negligence result in potential civil liability to the shipper?

Mr. SHERER. True. Or stated liability under his tariff provisions.

Mr. FOLEY. Other than statutory liabilities are there to your knowledge any specific regulations promulgated by the FAA or the CAB with regard to conditions of transit for live animals?

Mr. SHERER. Not at the present time, Mr. Chairman.

Mr. SEBELIUS. One other question, Mr. Chairman, and is there any other standardized crate or container for the shipment of animals.

Dr. MULHERN. I think the answer is no.

Mr. SEBELIUS. Well, we had Congressman Whitehurst testify that most of them are what you call lettuce crates or "Bruce" crates.

Could anybody describe that? Does anybody have any knowledge of what he was referring to?

Mr. SHERER. We have seen these used not so often by the individual pet owner, but more often by the commercial shipper shipping puppies or shipping something of that nature, and using improvised shipping containers. There are sturdy containers, safe containers and some air carriers attempt to refuse shipment under conditions of these lettuce crates and so forth. However, it is probably not policed as well as it should be and oftentimes the customer may appear with this animal at the last minute and maybe shipped as baggage rather than freight and accompanying a passenger if the passenger insists that the animal may travel on the same flight that the passenger travels, and you get into the interplay of the human being behind the counter and the customer on the other side, one insisting, the other attempting to refuse, but often breaking down and accepting the shipment.

Mr. SEBELIUS. Well, I recently made a flight from Kansas City to Chicago wherein they shipped a chimpanzee and he was put in his crate like a suitcase and run down the chute and into the hold, and that is what his owner wanted done. That is what happened.

I wonder if your tariff had any kind of guidelines or provisions.

Mr. SHERER. I am afraid not, sir, although I would say that some of the airlines have manuals which cover the handling of all forms of cargo, including these kinds of shipments. There is an attempt made to deal more realistically and more humanely with animals. Perhaps it has been growing in the past 2 or 3 years under the efforts of the Humane Society and other interested groups who are all participating, by the way, in our proceeding, as is the Agriculture Department and the Department of Transportation. We have a very broad proceeding but we are hopeful that something good may come out of this.

Mr. SEBELIUS. The testimony here—and I will have one more question, Mr. Chairman—was that about a year ago you had the subcommittee hearings on oversight before the House Government Operations Committee.

Dr. MULHERN. Yes, sir.

Mr. SEBELIUS. And how soon do you anticipate the meeting of this committee now that you have set it up?

Dr. MULHERN. We have not specified the date, but we are expecting it in early fall.

Mr. SEBELIUS. I would think that regardless of progress, or what this committee has with this bill or others, that it would be highly desirable to get on with it.

I thank you, Mr. Chairman.

Dr. MULHERN. If I may add, Mr. Chairman, on a point that I was making about public conscience, anyone who read the hearings or has been involved in work at these airports has seen very inhumane conditions, and dead animals, arriving dead or emaciated, this type of thing.

Now, there are some that come through that are all right, but there have been some inhumane situations.

Now, you know, in 1970 there was an amendment to the original Animal Welfare Act that gave us added responsibilities. Now we have 7,000 institutions to regulate, and this proposed bill would enlarge this. If it included birds, the number would get up to 36,000. This whole humane movement is one in which if we are really going to do

something about it, has to get a priority placed on its true value to society. It has to place a priority high enough so that when we are talking about doing something significantly to change the status quo, our society recognizes it as a high priority. Otherwise we do a lot of talking but we really do not change the situation.

Mr. FOLEY. I agree with you, Dr. Mulhern, that there is a need for greater public consciousness. However, isn't one of the problems the fact that the treatment and handling of animals in interstate commerce is not always clearly visible to the public? In other words, if we have poor or excellent conditions in air terminals with the shipment of animals, those conditions are largely observed by employees of the airlines or the carrier and not by the public.

I am not quarreling with the testimony today. I understand the overlapping and somewhat ambiguous nature of the responsibility here, but to whom would an interested citizen go to complain? At the Department of Agriculture he would be told that the Agriculture Department had no jurisdiction over transportation. At the CAB, he would be told that their primary concern is economic, primarily airline certificate routes and tariff regulations on baggage. At the FAA he would be told their mission is to assure the airworthiness of the aircraft and the safety of passengers. Among these various Government agencies, even those familiar with the organization of the Federal Government would perhaps exhaust their knowledge of where to go to make a complaint other than to the carrier itself.

The problem, of course, is that those who observe these problems are largely employees of either the carrier or ancillary carriers, who are placed under a burden to complain to their own employers about the apparent conditions. It is not satisfactory, in my judgment, to put the burden on the employees since their complaints may jeopardize their jobs or merely be brushed aside. Nowhere that I can see under present governmental authority is an agency even charged with responsibility to point out abuses other than, perhaps, through an interagency committee. If we are to rely on the interagency committee, I would think we would require some method of publicly exposing those carriers that handle animals improperly. In this way, the public consciousness can be brought to bear on them.

Do you have any comment on that?

Dr. MULHERN. No; only that I agree with you. The whole area that we are addressing ourselves to is one in which I think you will find most agencies would like to see corrective action. But we are caught in the question of who has responsibility over what, and this in the end does not resolve the problem. It just maintains the status quo.

Mr. FOLEY. Now, the Department has certain veterinary employees and others at certain ports of entry, does it not?

Dr. MULHERN. That is correct.

Mr. FOLEY. Isn't this almost solely to enforce the quarantine clause administered by the Department of Agriculture?

Dr. MULHERN. That is right.

Mr. FOLEY. Then the purpose of veterinary supervision is not specifically related to the handling of the animals, but rather to their health on arrival.

Dr. MULHERN. That is right.

Mr. FOLEY. In many terminals outside of ports of entry, the Department has no veterinary personnel supervising or reviewing animal handling practices. Is that not the case?

Dr. MULHERN. Yes; we have these veterinarians only at the international ports you mentioned.

Mr. FOLEY. Only.

Dr. MULHERN. Yes, only.

Mr. FOLEY. They do not exist at other ports of entry.

Dr. MULHERN. That is right.

Mr. FOLEY. Apparently their jurisdiction is extremely limited, since they are not in a position to regulate the handling of cargo other than to quarantine animals for health reasons.

Dr. MULHERN. To see that they meet our import requirements from a health standpoint.

Mr. FOLEY. Here again is an example of a lapse of jurisdiction over conditions which they might observe but have no authority to correct or regulate.

Federal Aviation Administration witnesses appearing tomorrow. Although it probably would have been better to have had them today, there was some difficulty in scheduling.

As is apparent from your testimony, Dr. Mulhern, you believe I gather, that the interagency committee offers an opportunity to establish some guidelines which can be used rather than relying on the administrative authority of the various departments involved.

Is that right?

Dr. MULHERN. Yes, we think that initially we should try to work it out among the different agencies and see how it does come out. With the attention that can be given to it by everyone who has an interest, we could see if we could not do it without having just one agency just take over full responsibility. We would also like to see what the airlines themselves will do in dealing with the respective agencies that regulate them. Perhaps we can make a great deal more progress in this manner. I know that others disagree with that, but that is what we would like to see happen first.

Mr. FOLEY. Mr. Sherer, what is the jurisdiction at the present time of either the CAB or the FAA with respect to cargo that might be considered dangerous cargo?

Mr. SHERER. There is an Office of Hazardous Materials in the Department of Transportation which prescribes the terms and conditions of shipment of materials that may be explosive, may be otherwise dangerous substance to human lives. They have the primary technical responsibility to declare safe limits of acceptance. Our authority rests entirely upon what carriers may file in their tariffs limiting their acceptance of so-called dangerous or hazardous material, and we are guided at all times by the Office of Hazardous Materials in DOT.

Mr. FOLEY. In exercising your control over the tariff filings of the carrier, do you require any submissions on their tariff schedules relating to any conditions or procedures with respect to hazardous and dangerous cargos, or is that handled by the FAA?

Mr. SHERER. We have not encountered very much until sometime in early 1973, one carrier filed essentially a restrictive or embargo provision with regard to radioactive material, and it was after a shipment of isotope material that spilled, having been improperly pack-

aged. This brought forth, of course, a tariff provisions which literally restricted and restrained very mightily the shipment of this material. There was a great deal of counter concern expressed in the form of complaints by pharmaceutical and medical societies and organizations since this was a life-sustaining matter that was being shipped by air. It had a 48-hour life and could not move in any other transportation mode. That was the result, in a sense, of a preinspection, a packaging requirement and a posttransportation inspection requirement on the part of that air carrier. There has been no further incidence.

Mr. FOLEY. Is that requirement part of your tariff regulations?

Mr. SHERER. It is part of that carrier's tariff regulation and has been widely incorporated, I believe, by all of the other air carriers.

Mr. FOLEY. Is that a condition which the CAB imposes on the granting of tariffs to the airlines who carry such materials?

Mr. SHERER. Sir, to say it another way, it is a condition which the air carrier proposes should be required and the board, having viewed it as reasonable, does not suspend it or does not disallow it, so to speak.

Mr. FOLEY. Could the air carrier suspend it and be within tariff regulations?

Mr. SHERER. Could he totally embargo the shipment?

Mr. FOLEY. No, suppose he takes the shipment but takes it without complying with the pre- and post-inspection?

Mr. SHERER. He could do so, yes, sir.

Mr. FOLEY. He is at liberty to do so.

Mr. SHERER. He is at liberty to do so.

Mr. FOLEY. In other words, all this is actually a self-imposed restraint on the obligation of the carrier to receive such material for shipment.

Mr. SHERER. Yes.

Mr. FOLEY. He is entitled then to refuse the shipment if these conditions are not met?

Mr. SHERER. Of course, he assumes all the potential risk of loss of life and so forth.

Mr. FOLEY. Is there any similar condition with respect to acids or caustics?

Mr. SHERER. There are, I believe, some restrictions that follow the Office of Hazardous Material guidelines, but I am not sure that these are well defined in the tariff regulations at this point in time, and it is under consideration in the Department of Transportation even now to more closely delineate the restrictive shipment and items which will give rise, we believe, therefore, to tariff rules being specifically filed that will more clearly safeguard both the crews and the capacities of transportation.

Mr. FOLEY. We will follow that up tomorrow with the FAA.

To return to the subject of animal transport, at present, there is no requirement imposed by any agency of the United States with respect to conditions under which live animals are transported other than perhaps restrictions that may relate to the safety of the aircraft for human passengers.

Is that correct?

To your knowledge, are there any regulations designed to protect the health, safety, or condition of the animals themselves?

Mr. SHERER. To my knowledge, there is no Government-issued, published, detailed restrictions or rules on the acceptance and handling of live animals in air transportation.

Mr. FOLEY. It is solely a matter now of self-enforcement by the carriers.

Mr. SHERER. Yes, sir.

Mr. FOLEY. Dr. Mulhern, do you disagree with that?

Dr. MULHERN. Well, for livestock, for export, we have set up standards.

Mr. FOLEY. For export only?

Dr. MULHERN. For export only.

Mr. FOLEY. Does that affect in any way the receipt of imported animals?

Dr. MULHERN. No. They do not apply to imports. They only apply to export shipments by sea.

Mr. FOLEY. By sea only.

Dr. MULHERN. Yes.

Mr. FOLEY. There are no restrictions on land transportation for foreign commerce in and out of Mexico, for example.

Dr. MULHERN. None.

Mr. FOLEY. Are there none with respect to air transport in or out of the United States, from any port of entry?

Dr. MULHERN. Not that I am aware of.

Mr. SMITH. I believe the endangered species would apply in some cases, which would prohibit airlines.

Mr. FOLEY. That deals with the total importation of certain species into the United States.

Mr. SMITH. The only other area would be various State and Federal laws on health certification, documentation; some States protect their industry by prohibiting chicks into Georgia, but outside of that there is nothing specific.

Mr. FOLEY. Aside from the Endangered Species Act, which amounts to a total ban or embargo on the importation of certain classes of animals and the animal quarantine laws, there are no other regulations affecting the transportation of animals. Is that correct?

Dr. MULHERN. Not that I am aware of, sir.

Mr. FOLEY. Dr. Mulhern, other than the testimony you have given about the desirability of proceeding with both private and inter-agency efforts, and your concern over the burden such regulations might impose on the Department, have you any other objection to the bill?

Dr. MULHERN. Our position is that at this time we should explore all means to do this without bringing it under Federal regulation.

Mr. FOLEY. I take it from your statement that you do not quarrel with the need to correct the problem of inhumane and inadequate treatment of animals in foreign transportation which you acknowledge to be real.

Is that correct?

Dr. MULHERN. Yes, sir.

Mr. FOLEY. Thank you very much. I do not have any further questions.

Counsel?

Mr. RAINBOLT. Just one question, Mr. Chairman.

Doctor, have you provided a cost estimate for this legislation, for 15843, or can you provide it?

Dr. SWINDLE. For the first year it is slightly over half a million, and for each succeeding year it is slightly over \$300,000.

Mr. RAINBOLT. So the 5-year cost estimate would be about \$1,700,000 for 5 years, and that is an official estimate from the Department?

Dr. SWINDLE. Well, that is our worksheet, slips we have scratched out. That is the best estimate we could give.

Mr. RAINBOLT. In the event the legislation moves and you update that, would you provide the change formally to the committee? Otherwise we will operate off of this as being the formal cost estimate to the committee.

Dr. MULHERN. I would like to add to that, we are not including livestock in that estimate. There is something like, I think I heard, 6 million shipments a year of livestock. So in that estimate of costs we are not including livestock.

Mr. FOLEY. Are there any further questions?

[No response.]

Mr. FOLEY. If not, Dr. Mulhern, Dr. Swindle, Mr. Sherer, and Mr. Smith, we appreciate your appearance here today. The committee may want to address additional written interrogatories to the Department or to the Board. You have been very helpful.

The last scheduled witness will be Mr. Duncan Wright, president of the American Dog Owners Association, Sacramento, Calif.

STATEMENT OF DUNCAN WRIGHT, PRESIDENT, AMERICAN DOG OWNERS ASSOCIATION, SACRAMENTO, CALIF.

Mr. WRIGHT. Mr. Chairman, members of the committee, my name is Duncan Wright. I am president of the American Dog Owners Association, which is headquartered in Sacramento, Calif. Our association is composed of a variety of different groups, all of which are concerned with the problem of rail transportation of animals, and in a rather unique sense, while we have among our membership both organizations and individuals primarily concerned with the humane aspects of animal welfare, we also have a very substantial membership composed of people who would be classified as shippers of animals.

I noticed in the discussion so far today that there has been considerable emphasis on the air transportation problem, and I would like to address some of my comments to that, but in order to place in perspective our views on the transportation problem, I would like to first discuss briefly the various categories of animals other than agricultural animals with which we are concerned. And the first category, of course, is primarily privately owned pets. These are family pets that are taken by commercial means on vacations or shipped to other members of the family and that sort of thing, and we have noncommercially raised pets such as puppies and kittens and animals of that type. We are concerned, of course, with the commercially raised pets, pet animals such as dogs, cats, gerbils, and hamsters and those sorts of animals; of course, laboratory and research animals; and then what we call other animals, and those are small, relatively small number, but they are concerned with zoo shipments and special-purpose animals such as search and rescue dog teams, some sled teams, and special-purpose animals of that type.

Now, there is a point that I would like to address here. I have prepared this brief chart (not shown) outlining the history of transportation of animals. And, a very key point here, the transportation of animals within the continental United States did not constitute a significant level of business prior to World War II. And, of course, up until that time, the primary means of transportation were by ground.

Commencing with the end of World War II, which, of course, again saw the increase in air transportation, we saw a gradual transition from ground transportation of animals to air transportation of animals. I do not think this resulted from any direct input from anyone, but rather from an awareness on the part of the shippers that there was less hazard to the animal if it was shipped by air.

Commencing about 1956 with the advent of jet aircraft, we saw that the ground transportation of animals practically disappeared. At the present time, probably 98 percent of all pet types or laboratory animals are shipped by air.

There has, of course, been, since the Second World War, a tremendous increase in the commercial shipment of animals. Even research institutions, which, at times in the past, raised their own animals, but very seldom do this any more. So in addition to the tremendous increase in animals, we have seen a tremendous increase in the number of animals shipped to research institutions.

Now, the major problem that we have at the present time is one of lack of standardization of procedures and specifications. It is true that there are carriers, for example, in the area of air transport, that have accepted some level of responsibility. But it is interesting when you have a carrier that refuses to place, for example, dogs on a particular type of aircraft because that particular carrier feels that that aircraft is not safe for the animals, and you are told of the other carriers in the country that are transporting animals, will accept shipment on that type of aircraft.

Now, there obviously is a conflict.

Now, to get down to the essence of the problem, again, the major problem is the growth of both the commercial and the noncommercial traffic, the lack of knowledge by carriers, and no compensation for the lack of knowledge by the establishment of rules by people such as the Department of Agriculture who, in fact, have that expertise; minimum or nonexistent personnel training in the handling of animals, and an attitude on the part of the carriers that it is not their responsibility to see to the safety of the animals, but rather to deliver an intact package.

Now, I think it is essential to recognize that there are a number of factors to be concerned with in this particular area. As far as the value of the individual animals, commercially raised purebred dogs, for example, average about \$50 at the wholesale level. And I will, at the time that we submit our written testimony, include this pricelist from a broker in Kansas. Of course, these dogs are sold to the public at prices considerably above that.

This list here has 75 different types of dogs on it, and if you average it out, it actually comes to \$43.46. These puppies are, of course, sold to the public through commercial dog stores at prices that are considerably higher than that.

Now, noncommercially raised purebred dogs average about \$200 in value. Special purpose dogs vary anywhere from search and rescue dogs—they cost \$1,000 to \$2,000 to train one of those dogs. And, of course, they have a value that is difficult to estimate, but we used the number of about \$5,000. Show dogs that are starting their career will average \$700 to \$800, roughly. Of course, the more prominent show dogs will have values in the thousands.

Now, the major problem areas are lack of health certification requirements; lack of shipping container specifications; and lack of en route care requirements.

Now, the effects of these deficiencies are mistreatment of the animals and fraud on the consumer and, in substance, a health hazard.

Now, when a pet-type animal such as a dog leaves a farm, if it has not been properly examined, if it has not received its inoculations, then—it was brought out. I think, earlier in one of the questions—the public which has no knowledge of the background of these animals is, in substance, defrauded.

As we will submit the information regarding the wholesale value of the dog, we would like at the same time to include in our written testimony an action by the superior court of the State of California.

Now, this action against a dog store chain in California resulted in a consent judgment by that dog store chain and a fine of \$51,000. In essence, the basis of the action was the defrauding of the public in that community.

The majority of that defrauding of the public in that community could have been avoided had there been adequate regulation of health certification and that sort of regulation which, in addition, would provide for protection of the animals in transit.

I would like to cite—I am not going to attempt to go into a lot of what we like to call horror stories, but there are some rather interesting ones, and some of these bear on people who should know better. Last year one of our investigators, watching a shipment of dogs coming into Albany, N.Y., noticed that there were three lettuce crates full of pigeons.

Now, whether one likes pigeons or not is beside the point. What had happened was that the Lincoln Park Zoo in Chicago has a surplus of wild pigeons. They, therefore, set traps for these pigeons and they sell them to a zoological supply house in Albany, N.Y.

What the Lincoln Park Zoo had done was to put 120 pigeons in three lettuce crates and to ship these pigeons from Chicago to Albany, N.Y. And, of course, when they arrived in Albany, there were 116 dead pigeons and 4 live ones.

Commercially raised dogs are grossly mishandled. The history there is evident; I do not think we need to go into a great deal of detail. But in many cases they are shipped at too young an age without proper protection, without health certification, and with improper documentation.

We have, in another investigation primarily concerned with dogs, run into an interesting situation. A very large shipment of laboratory rats came into the Chicago Air Express office. These laboratory rats were contained in cardboard containers with holes around the side.

Well, during the transit from the supplier to Chicago, of course, the rats had absolutely no difficulty in eating their way out of the card-

board containers. The way we noticed it was that there were numerous rats running around the Air Express facility at the Chicago airport. Of course, these rats will disappear into the community via trucks that are brought in there to load or unload goods. You end up with a situation where you increase the rodent infestation of a community. That simply does not need to exist if the proper type of container had been used.

We had another example at the Detroit airport of a bear being shipped in a container. He had been in that container about 9 hours. The container was such that he could not lie down; the bear had been standing during air transport from the time he was put in the container, for approximately 9 hours.

Now, with regard to the present situation, there is, as we all know, some action going on at the Civil Aeronautics Board. We have seen some improvement in the air transportation situation. This improvement that we have seen has come about primarily as a result of an issue of the airlines, and I think primarily because they realize that they are being watched.

Docket No. 21474 did settle a rate matter. We are hopeful that docket No. 26310 will further improve the air transportation situation. We do anticipate, however, that there is going to be extensive litigation with regard to docket No. 26310 should the Civil Aeronautics Board elect to lay down rules, because, in our conversations with some of the representatives of the carriers, they have indicated that it is the view of their counsel that the Civil Aeronautics Board is exceeding its authority and that, therefore, they will undertake a court action to settle that matter at the end of this docket.

Now, there is a rather interesting—and I would like to emphasize this point. The next comment here is entitled “circumvention.” We have intervened in a matter with the Interstate Commerce Commission which has some very, very interesting overtones.

It has become very evident in the last 9 or 10 months that, as I mentioned, the air carriers are attempting to clean up the operation on a voluntary basis.

Now, any time that we see either the Government or individual carriers impose additional regulations, we are going to see that the commercial shippers of animals are involved, at least in some degree, in increased costs. The matter before the Interstate Commerce Commission is interesting in that it represents an attempt to circumvent the work of the Civil Aeronautics Board.

I think that unless there is, in fact, established as a matter of law basic specifications, we are going to see the commercial animal industry continue to attempt to circumvent voluntary regulations. In this particular instance, there is an organization headquartered in Chicago that is known as Auto-Driveway Co. It is an organization that has been in existence for a number of years.

Their primary business is to advertise in the newspapers for families that are moving, that they will arrange for the transport of vehicles to the new location. Generally, the way they do this is to advertise for people who want to travel from Washington to Seattle free. And from the people that respond to the advertisement in the newspaper, they will make a selection, and they will arrange for that individual to drive that private vehicle from Washington to Seattle.

They have petitioned the Interstate Commerce Commission for permission to transport live animals, specifically dogs, by truck from the Kansas-Iowa area to the Detroit-New York-Baltimore-Washington, D.C. area. They propose, for example, to transport these puppies in two different kinds of trucks, one truck designed to contain 120 puppies and the second truck designed to contain 400 puppies.

In the absence of any regulation, any matter of law which establishes specifications within which this company must operate, they have been absolutely free to propose whatever they felt was adequate. They have answered in their petition for the license to perform this service, for example, they state that in overnight trips, if there is an overnight requirement—which, of course, there would be in transporting animals over that distance—that they will stop at a kennel or a licensed veterinarian.

Now, gentlemen, there is simply no way that a truck with 400 puppies can show up at a kennel suddenly and expect either a veterinarian or a licensed kennel to accept those puppies without complete vaccination, inoculation records, and all of the rest of it.

Secondly, when you get down to a man-motion study, based on the 3-minute care requirement for each of the puppies, it becomes very obvious that the length of time required to provide the minimum 3 minutes of care to the puppies exceeds the travel time. It then becomes evident that in the absence of standardized regulations that this attempt to circumvent the tightening of the operation by the airlines will succeed, and we will see a resurgence of truck transportation of pet animals, which will be a disaster unless we have some standardized regulations applicable to all of the transportation industry.

Now, as far as solutions, we believe that the essential points are standardization of procedures and specifications.

Now, gentlemen, this is not going to be done on a voluntary basis. We have gone through a decade of this. We have gone through a decade of talking to the airlines; we have gone through a decade of talking to the various administrative departments of the Government. They are only going to do this type of work if they are forced to do it, if it becomes a matter of law that they are required to perform the function of establishing regulations for the control and transport of animals. Otherwise, they will not do it, and the carriers across the board will not do it, with a few exceptions.

We believe very strongly that the establishment of the specifications must be done by a separate agency and that the agency which has the greatest expertise is in fact that Department of Agriculture. It is true that they do not have experience in some particular areas, but they do have the technical staff and the basic technical knowledge to perform that function, and that that Department must have the authority to enforce and prosecute those responsible for the mistreatment of animals.

We believe that the Department of Agriculture is essentially less subject to pressures from the transportation industry than perhaps some other departments and that, in fact, they might well be more objective in the establishment of specifications.

That concludes my remarks. If you have any questions, I would be glad to respond.

Mr. FOLEY. Thank you very much, Mr. Wright, for a very interesting and useful testimony.

Mr. BERGLAND.

Mr. BERGLAND. Thank you very much, Mr. Chairman.

Mr. Wright, that was very helpful evidence.

I have a question about how many animals are transported by air annually. Do you have any idea?

Mr. WRIGHT. This is a difficult figure to obtain. We estimate that somewhere in the neighborhood of 5 million, not talking about agricultural animals.

Mr. BERGLAND. Five million.

And has this been increasing?

Mr. WRIGHT. Yes, the incidence has increased in proportion to the increased ownership of pet animals and increased commercial activity in nonpet animals, laboratory animals. We are including in that category gerbils and hamsters and all of the types of animals that would be used as pets.

Mr. BERGLAND. As you bring your case and complaints to the carriers, what sort of response is granted?

Mr. WRIGHT. Well, the difficulty is that people who bring these types of complaints on an individual basis, as well as our attempts to work with them, individuals who have a problem are attempting to settle a problem with the party to the problem. This is, of course, very seldom successful.

For example, even in the matter of settling claims, most of the claims fall into the category of what the carriers call the self-insurance program. Therefore, you are not dealing with an independent insurance agency, for example, and the settlements are just completely unsatisfactory. When there is a problem, they just will not accept any responsibility for the problem, whatever. They are not required to deliver a live animal. They are only required to deliver freight. They have shown an intransigence in their approach to correcting deficiencies in this area, which just is incredible. We have over a period of years corresponded with all the airlines in the country, and their response is just negative across the board.

Mr. BERGLAND. Have they left you with the impression that they would attempt to block any uniform standards that might be applied?

Mr. WRIGHT. There is no question about it. We see it in the Civil Aeronautics Board at the present time. Any time any effort is made to expand the scope of the Civil Aeronautics Board hearings, there is resistance from the majority of the air carriers.

Mr. BERGLAND. I would presume that in the absence of some kind of authority the carriers would be reluctant to develop any program of their own unilaterally lest they be put at a competitive disadvantage.

Mr. WRIGHT. Yes, this seems to be their attitude. And it is rather interesting that attitude exists, because one would suspect that the Air Transportation Association, acting as a focal point for the industry, would get together and say, now, look, fellows, let us get this straightened out, and this is what we have to do. And then, based on the establishment of those specifications, come in with new tariffs, and based on those new tariffs, go in for new rates. Because we certainly recog-

nize that increased care for animals is going to result in increased rates.

They seem to take what appears to us to be a very shortsighted view in that they just do not want anything to do with it, period, rather than going on the basis of the fact that better service, better rates, which we certainly would agree with.

Mr. BERGLAND. To your knowledge, has the Air Transport Association undertaken any action in this area?

Mr. WRIGHT. Yes, they have over a period of time. I think that, looking at the situation from the outside, that it has been nonproductive.

Now, whether the Air Transport Association has difficulty in working with their own industry, I do not know. But it has not been effective.

Mr. BERGLAND. Thank you very much, Mr. Wright.

That is all, Mr. Chairman.

Mr. FOLEY. Mr. Denholm, do you have any questions?

Mr. DENHOLM. I do, Mr. Chairman.

Are there many animals shipped by air?

Mr. WRIGHT. Yes, there are a great number. And this, of course, has increased over the last decade, especially due to the commercial shipments.

Mr. DENHOLM. What kinds of animals are most often shipped?

Mr. WRIGHT. Well, in the past 20 years we have seen a transition in the pet supply business and also in the laboratory animal business from individual breeders to larger operations. And, of course, the larger operations are centralized, and, therefore, they ship dogs and cats and gerbils and hamsters and birds from more centralized operations all over the country. They are more and more being sold that way.

Mr. DENHOLM. Does the abuse most often occur in transit or at destination?

Mr. WRIGHT. The actual—in our investigation, we believe that the actual transportation period is relatively safe, that once the animal is stowed, it is relatively safe, providing the packaging is reasonable. The problem is in the handling. And, of course, part of that hazard is presented from inadequate packaging which the carriers should not be permitted to accept and which the shippers should not be permitted to use. But the actual transportation is not that bad.

You see, all of our jet aircraft are pressurized. Once in a while, they will get a dog in the wrong compartment, and the dog is a dead dog at that point. But the majority of shipments, the majority go into the right compartment. Unless they put some dry ice or something in there, the dog is going to survive that aspect of the transportation.

Now, our studies indicate that there are some very, very severe temperature extremes on an airplane, from 4 degrees to 129.6 degrees. This resulted from a study with a temperature device over 15 different cities. And while the cargo holds where the animals are stored are pressurized, there is, in fact, no ventilation except that resulting from leakage around the cargo door seal. But even within those constraints, the length of time in which animals are subjected to that environment within the continental United States is relatively short. Therefore, that part of the procedure is reasonable.

It is the handling, primarily. And that would, of course, be improved with the improved packaging. There is a really terrible problem with regard to health certification. When you have a veterinarian in Iowa that certifies 300 puppies in 1 day, you can just imagine how long he took to look at those dogs.

These are the sorts of things we see. I was in Iowa, or Nebraska, I think with a reporter from the New York Times, and we pulled into a veterinarian and never took a puppy into that vet's office and came out with a health certificate. These sorts of practices are just incredible.

We have seen commercial puppy brokers—and I recognize that there are some that are good and some that are bad—but we have seen envelopes marked "health certificates" with Jello cartons in them. There was no health certification on the dog at all. Or health certificates within 3 months prior to the shipment of the dogs, these sorts of things.

Now, the difficulty with this sort of a situation is that it precipitates a fraud on the consumer, an incredible fraud on the consumer. And I think that, in fact, the lawsuit by Sacramento County is typical of this. If those dogs had been inspected and health certificates were required, the County of Sacramento, Calif., would never have been able to get that kind of a judgment.

Mr. DENHOLM. Thank you very much.

Mr. FOLEY. Well, again, Mr. Wright, we want to thank you for your testimony. Obviously, your association is deeply involved in trying to correct the conditions you have described.

I think you underscored what appeared to the committee to be the principal problem, which is the handling prior to actual shipment or receipt of the animal on destination.

Did you have some further written testimony you would like to present?

Mr. WRIGHT. Mr. Chairman, we will present that prior to the end of the hearings.

Thank you for the opportunity.

Mr. FOLEY. Thank you for your appearance today.

The committee wishes to thank the witnesses for their testimony.

The subcommittee will stand in recess until tomorrow afternoon at 2 p.m.

[Whereupon, at 4 p.m., the subcommittee was recessed, to reconvene at 2 p.m., Wednesday, August 7, 1974.]

ANIMAL WELFARE ACT AMENDMENTS OF 1974

WEDNESDAY, AUGUST 7, 1974

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON LIVESTOCK AND GRAINS
OF THE COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met, pursuant to recess, at 2:10 p.m., in room 1302, Longworth House Office Building, Hon. Thomas S. Foley (chairman of the subcommittee) presiding.

Present: Representatives Foley, Bergland, and Price.

Also present: Fowler C. West, staff director, John V. Rainbolt, associate counsel; Steve Pringle, staff assistant; and Betty Prezioso, staff assistant.

Mr. FOLEY. The subcommittee will come to order.

The subcommittee meets this afternoon for further consideration of H.R. 15843, the Animal Welfare Act Amendments of 1974, and related bills.

The first witness this afternoon is Mr. James Rudolph, Acting Associate Administrator for Safety of the FAA, accompanied by Mr. Richard Skully, Acting Director of Flight Standards Service.

Mr. Rudolph and Mr. Skully, we are happy to welcome you to the subcommittee.

You have a statement, I believe, Mr. Rudolph.

STATEMENT OF JAMES F. RUDOLPH, ACTING ASSOCIATE ADMINISTRATOR FOR AVIATION SAFETY, FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY RICHARD SKULLY, ACTING DIRECTOR OF FLIGHT STANDARDS SERVICE

Mr. RUDOLPH. Thank you, Mr. Chairman.

Yes, I do.

Mr. Chairman, as you know, I am James Rudolph, FAA Acting Associate Administrator for Aviation Safety. With me is Richard Skully, our Acting Director of the Flight Standards Service. We appreciate the opportunity to appear before you today to lend our assistance in solving a problem that is of concern to a great many Americans.

The United States has long been a nation of animal lovers—the estimated \$4 billion spent annually in this country on pets certainly attests to the present interest. With this love of animals comes the deep feeling that animals of all types should and must receive humane treatment.

The FAA's primary statutory charge is to promote flight safety, and we have traditionally concentrated on aircraft and passenger safety. However, the FAA is mindful of this concern for the humane treatment of animals, Mr. Chairman, and we have taken an active role, within the bounds of our statutory authority, to improve the situation.

I am pleased to report to you this morning, Mr. Chairman, that this week the Administrator will sign into effect a new Federal Aviation Regulation which is specifically related to the carriage of animals aboard air carrier aircraft. The rule provides that no air carrier, supplemental air carrier, or commercial operator may carry a live animal in a container in the cargo compartment unless the container is (1) securely attached to the cargo compartment; (2) isolated from other cargo in the compartment by use of webbing partitions, or other means adequate to prevent physical contact with other cargo under all normally anticipated flight and ground conditions; and (3) is located in the cargo compartment in such a manner as to assure that ventilation areas of the container are not obstructed.

This rule, while obviously not a panacea for the entire scope of the problem, is a necessary and important first step that we can take today. This rulemaking was prompted by recommendations made by the House Committee on Government Operations following hearings last September. The committee found that in some instances injury or death occurred when animal containers were not secured, permitting the container to shift during flight or ground operations. In some instances, other cargo in the compartment was not always tied down securely, creating a risk that shifting bags or boxes might crush an animal container or block off the animal's air supply. We believe this new rule will go a long way toward alleviating this problem area.

I assume, Mr. Chairman, that one of the reasons for today's hearing is to elicit helpful suggestions from the Government agencies involved. In this connection I would like to make a few observations with respect to how the FAA can best use its present regulatory authority. It seems as though we have two basic options: We can either move toward providing animals with the accommodations and environment approximating those provided humans, or we can take stress data developed outside FAA and pass regulations prohibiting the carriage of animals under conditions not meeting minimum levels identified by that data.

I feel the former solution would be so costly that, ultimately, animals could not be shipped on aircraft. The latter solution appears to be the most logical approach, assuming one accepts the idea that animals should be shipped by air. The "stress data" I refer to involve several parameters, including high and low temperatures a given animal type can tolerate, air exchange rates needed by different types of animals, carbon dioxide levels that animals can tolerate, and noise levels tolerable by animals. These data can be determined by experts in veterinary medicine so that we can get a clear picture of what environment various types of animals require. With this basic knowledge the FAA can prohibit animals from being shipped by air unless their environmental needs can be met.

Another area into which the FAA can move, but here again requiring the collection of basic data and developing standards based on that data, is in the area of crate construction requirements. We need to know

how much loading a crate can take, how strong it must be to keep the animal in, how much ventilation is needed in the crate, what size crate is required for a given size and type of animal, how many animals can be shipped in the same crate and whether species can be mixed, and the proximity certain animals can tolerate toward different species (for example, how close can we load dogs to cats). When those having the expertise can give us this information we can prohibit the shipment of animals by air in crates not meeting a certain standard.

The question arises as to how and by whom this needed data is to be obtained. The House Committee on Government Operations recommended an interagency committee, comprised of personnel from the U.S. Department of Agriculture, the Civil Aeronautics Board, and the FAA, to identify existing problems and develop corrective regulations. Pursuant to that suggestion, we have met with USDA personnel, and a committee structure has been worked out. I see the USDA as having the expertise to obtain the data FAA needs to strengthen our regulatory program as it relates to animals. The interagency committee will be a very useful tool in funneling ideas and developing needed standards.

Mr. Chairman, with regard to H.R. 15843 now pending before this committee, we defer to the opinion of the Department of Agriculture.

Mr. Chairman, thank you again for the opportunity to appear before you today. If you have any questions I will be pleased to respond as best I can.

Mr. FOLEY. Thank you very much, Mr. Rudolph. I find your statement very helpful, and I especially want to compliment the Administrator and the FAA for developing needed standards with support to animal cargo.

It appears that you have little doubt of the Federal Aviation Administration's authority to promulgate regulations regarding the safe handling and positioning of animals in cargo shipments, crate standards, and the ventilation requirements aboard aircraft. Is that correct?

You also seem to feel that the whole broad question of the environment in which an animal is shipped is subject to regulation by the Federal Aviation Administration.

Mr. RUDOLPH. The real problem, Mr. Chairman, is that the Federal Aviation Administration doesn't have the expertise to determine the size of the crate, if I may use the word crate, the structure of the crate, the environment, the minimum and the maximum temperatures that the animal can be subjected to, and the volume of air that is required for the size of the animal.

Now, given those parameters, then we can readily pass the regulations that would require every animal shipped to be shipped in a compartment that met or in a crate that met those standards. But we don't have that expertise, Mr. Chairman.

Mr. FOLEY. Does this mean that you don't have sufficient expertise on animal tolerances, but that you do with respect to physical conditions and the environment of the aircraft?

Mr. RUDOLPH. As far as location in the aircraft, yes, we can pass the regulations.

Mr. FOLEY. And the temperature variations in a cargo compartment?

Mr. RUDOLPH. Give us the environment and we can pass the regulations that require these standards.

Mr. FOLEY. Is it correct to assume that you intend to continue gathering data on animal tolerances in cooperation with the Inter-agency Committee, which is being created.

Mr. RUDOLPH. Yes, indeed.

Mr. FOLEY. Are you making any effort outside of that committee to obtain the data you feel is needed? Have there been any efforts by the Administration to seek advice from outside groups who have the necessary expertise on animal tolerances or directly from the Department of Agriculture?

Mr. RUDOLPH. We have gone to NASA, because NASA has had some experience in this area. And we have not been able to obtain that kind of data that we need from NASA. And we have gone back to the Department of Agriculture and asked them if they would supply us with that kind of information, the environmental data that is necessary.

Mr. FOLEY. Have you been advised as to whether they have the information and data?

Mr. RUDOLPH. I understand that they have the capability, the veterinarian capability, to furnish this. But I am not too sure that this information is readily available. I am not sure how much research it takes, Mr. Chairman, to come up with these kinds of parameters where there are different sizes and weights of animals.

Mr. FOLEY. Do you consult with the Civil Aeronautics Board with regard to economic impact? Have you undertaken economic studies within the Federal Aviation Administration with respect to changed regulation requirements on cargo shipments?

Mr. RUDOLPH. We have discussed with the Civil Aeronautics Board—we consult with them quite regularly on tariffs and various requirements. And to my knowledge, though on this particular problem we have not had the Civil Aeronautics Board figures, CAB does not have the expertise either to come to terms with it. I think CAB is more or less working with the Interagency Committee that the Department of Agriculture has established.

Mr. FOLEY. I am speaking now of the regulation that has just been promulgated by the Administrator. Do you have any estimate on what economic impact that regulation will have on tariffs?

Mr. RUDOLPH. As far as the one that the Administrator will sign this week, I don't believe that that is going to have an impact on the economic regulations at all. The regulation that the Administrator will sign this week merely state that the crate or the compartment will be secured; in other words, it will not be able to move around in the aircraft during takeoffs and landings and in flight, and two, it shall be partitioned off so that other cargo can't move around against crush, or cut off the ventilation to it; and three, that there will be ventilation available to that compartment.

The economic regulations will not, in my opinion, be effected.

Mr. FOLEY. Would it be correct to summarize your position by saying that, given appropriate data on animal tolerances and the environmental requirements of animals in flight, has the FAA authority to promulgate regulations limiting the carriage by air of animals unless they meet those standards of environmental tolerance?

Mr. RUDOLPH. That is our feeling. We have that authority now.

Mr. FOLEY. And there is no need in your judgment for granting additional statutory authority to the Administration?

Mr. RUDOLPH. No; there is not.

Mr. FOLEY. Thank you very much.

Does counsel have any questions?

Mr. PRINGLE. No questions.

Mr. FOLEY. Thank you very much again, Mr. Rudolph. I appreciate your appearance and that of Mr. Skully. The committee may want to submit some written interrogatories to you. The other members unfortunately are unable to attend the subcommittee because of pressing business on the floor. In the event that they wish to have some questions answered for the record, we will be in touch with you.

Mr. RUDOLPH. That we will do.

Thank you very kindly.

Mr. FOLEY. The next witness will be Mrs. Fay Brisk, director of Animalport, Washington Humane Society.

STATEMENT OF FAY BRISK, DIRECTOR, WASHINGTON HUMANE SOCIETY "ANIMALPORT," NATIONAL AIRPORT, WASHINGTON, D.C.

Mrs. BRISK. Mr. Chairman and members of the subcommittee, the Washington Humane Society appreciates this opportunity to testify on behalf of humane treatment for animals in air and motor transport. And we wish to thank the chairman for introducing H.R. 15843, which will do much to bring that about.

Because there can be no doubt that only a new law, properly enforced, will deter the airlines and other common carriers from treating live animals like ordinary freight—particularly since they have had sufficient time to take corrective action of their own.

The airline and air express companies could have taken this action 2 years ago, when the plight of animals in air transit was exposed by the Washington Humane Society in the Washington press and on television.

But they didn't.

They could have taken this action 10 months ago, when 4 days of testimony were enough to convince the House Government Operations Subcommittee that there were, indeed, abuses in animal transport, and that these abuses must be stopped.

But they didn't stop them.

And they could have taken action early this spring, when the Civil Aeronautics Board began its long investigation into the rules and practices relating to animal air shipments. But they objected to the investigation.

Instead—and because there is no Federal law to stop them—they choose to continue to ship animals as routine merchandise—a practice, the record shows, to which they have long become accustomed.

All we have to do to confirm this is to take a look at Washington National Airport, a major transfer point.

Here, in the Nation's Capital, at a Federal airport, the abuses continue: Birds, pets, and other animals are arriving from all parts of the country sick, dead, or in generally weak condition as a result of inadequate crating, insufficient ventilation, dehydration, malnutrition,

slow pickups and deliveries or just plain negligence on the part of the air transport industry.

Here, at a Federal airport, laws pertaining to birds, livestock, and other animals coming into the State of Virginia are being ignored by freight agents who are not even aware of them.¹

And here, at a Federal airport, there is not a single official assigned to supervise the care of animals in transit. There is no adequate animal port. And none is being planned.

There is only a temporary rescue mission, a part-time, emergency "animalport" operated by Washington Humane Society volunteers in a corner of the REA Air Express warehouse.

It has been temporary for 2 years. To give the subcommittee an idea of what is involved in caring for animals in transit, I will briefly describe some of our activities.

We handle as many as 150 animals a night, with the exception of coldblooded animals and laboratory animals, of which there are thousands, if you count the white mice.

We feed and water, change the bedding, administer first aid, and walk the big dogs. So many are cooped up for so long, they are frantic to get out of their crates to relieve themselves. Yet, I've seen freight handlers walk past a whimpering animal without so much as a backward glance.

Many of the crates are so firmly closed, we need a screwdriver, pliers, or a hammer to get them open. We use electric drills to provide air holes on crates that need ventilation. And we keep a hacksaw handy to repair damaged ones. Here are some pictures showing our activities.

Our operation is unique in that we are not salaried, we do not charge for food or services, and we care for the commercial shipments as well as owned pets. We prefer to keep it that way, rather than permit the animals to suffer. But we don't think we should be subsidizing the airlines or air express agency in their multimillion-dollar animal air transport business.

So we are pleased that H.R. 15843 will place the responsibility and the financial burden for the humane care of animals on the common carriers, where it rightfully belongs.

We also agree that the Secretary of Agriculture should set the standards with respect to containers, food, water, rest and other factors necessary to an animal's well-being. To illustrate how desperately these standards are needed, here are some of the shipments we encountered just in the past few months:

We found a dead Chihuahua puppy, and an agent for the Arlington Animal Welfare League took it to a veterinarian for an autopsy. The autopsy showed that the puppy had been strangled by its own worms.

We found a tiny terrier that was bleeding profusely from its urinary tract and needed veterinary care.²

We found 27 dead guinea pigs and 4 sick ones destined for a pet shop. We took them to the Alexandria Animal Shelter for disposal. An autopsy showed death due to a severe intestinal disease.³

¹ "Health Requirements and Regulations Governing the Interstate and International Movement of Livestock and Poultry: State-Federal," published by the U.S. Department of Agriculture (APHIS 91-17-6, May 1973).

² State anticruelty laws. (See "Animals and Their Legal Rights," published by the Animal Welfare Institute, 1970, pp. 13-28.)

³ WB No. 767642.

³ WB No. 960596.

We found 12 pheasants stuffed into a crushed, airless carton that had been underneath some other freight for several days. Five were dead. We saved the others.⁴

We didn't open the crate of a wild dingo dog that showed no signs of life,⁵ but we fed and watered three frightened wallabies⁶ and transferred 12 baby raccoons from a crate not much larger than a shoe box.⁷

We saw a wooden box tightly covered with burlap with no identification whatsoever. In it was a swan on its way from one zoo to another.

We saved the swan. But we did not know how to save 37 pitiful, screaming monkeys from the blood-soaked crates of a shipment containing dead ones.

All those animals I have just described were destined to remain in the terminal overnight for transfer to other flights or for area delivery the next day. Others go by truck to a Temple Hills warehouse or to small towns without air service. Others—mostly c.o.d.'s—simply wait. This is a cruel practice, and that is why we are so strongly in support of your proposal, Mr. Chairman, to put a stop to it. Too often, the consignee doesn't have the money, or has changed his mind, or can't be found, and the animals are then returned to the sender.

So are the rejects. There are mostly puppies that are rejected by the pet shops because they are diseased or of inferior quality.⁸ The Washington Humane Society would like to see this practice also stopped under H.R. 15843, as well as the practice of shipping puppies with newly cropped ears that bleed and become infected enroute.

We also hope that the provisions of the bill will automatically make it impossible for animals to pile up at airports the way they did last Christmas, when, despite the fuel shortage, flight cutbacks and snowstorms, puppies for the pet shop trade were still being accepted by Midwest airports. By the time the shipments got to National Airport, days later, many of the puppies were sick or dying. We were able to take about 50 to the Alexandria Animal Shelter, where those that were still alive were housed and given veterinary care.

So many of those puppies were 6 weeks old—and considerably younger—that we are gratified to see H.R. 15843 include minimum age requirements for all kinds and classes of animals, although we would prefer to see the minimum age for puppies and kittens set at 12 weeks rather than 8. But we agree that this can be left to the discretion of the Secretary of Agriculture.

We are also in favor of section 15, which provides for the humane handling of livestock. Not many of these shipments go via air express, but what I have seen could be vastly improved.

All these are fine provisions—provided, of course, that the Department of Agriculture will be given enough inspectors and enough funds to enforce them. As it is, the Department doesn't seem to have the staff to properly inspect all the breeders, pet shops and others that are USDA-licensed under the Animal Welfare Act. For example, there isn't a week that goes by that I don't telephone the animal care staff here to report poor crating or other violations by USDA-licensed

⁴ June 6, 1974.

⁵ WB No. 632244.

⁶ WB No. 413433.

⁷ May 29, 1974.

⁸ See "Charges Puppies He Bought in Iowa 'Diseased, Inferior.'" Des Moines Tribune, March 21, 1974.

breeders. The staff is always glad to have the information, but then must send it on to regional directors who send it on to field inspectors who get around to the breeders, when they get a chance.

Very often, if I consider the matter urgent enough, I will telephone the breeders myself. The point is that:

Laboratory cats are still being shipped with their tails dangling out of chicken crates.

Rabbits are still being packed in vegetable crates—the latest number being the one marked: “California Celery.” [And here’s a picture of it.]

And USDA-licensed breeders are still using certain plastic crates that are freezers in the winter, and pressure cookers in the summer, and should be banned.

Added to these shippers, under H.R. 15843, are the breeders of hunting dogs and other large dogs who seem to be able to get anything past the freight agents. Just to give the subcommittee an idea of how much more of an inspection problem this will be, here’s what happened a few weeks ago:

Two men brought in a Doberman in a wire crate which, they told REA agents, they had securely padlocked so that no one could get in. They should have looked again. While this specifically constructed, burglar-proof crate was being lifted into the aircraft compartment, the bottom fell out—and so did the Doberman. [Here are some pictures of poor crates.]

So we hope the Department of Agriculture will be given plenty of inspectors and enough money to do the job. They will need it.

Mr. Chairman, time does not permit me to go into the many other problems connected with animal transport, such as flight environment. The hazardous conditions in class D cargo compartments, where animals usually travel, were made quite clear by the Civil Aeronautics Board in docket 21474. The Federal Aviation Administration has issued some proposals to make the flight a little safer, and although these proposals are fine as far as they go, they do not go far enough. The Secretary of Agriculture and the Secretary of Transportation should be able to strengthen them.

On the whole, we support H.R. 15843—especially the \$1,000 fine which, we hope, applies to individuals as well as to companies.

Perhaps a \$1,000 fine will inspire freight handlers to pay attention to shipments marked: “Live Animals, Rush.” “Keep Out of Sun.” “Keep Warm.” Or “Keep Cool.”

Perhaps it will inspire them to handle these crates with care, instead of tossing them on conveyor belts or stacking them upside down.

Perhaps it will inspire them to give a thirsty animal a little water on a hot, summer’s day.

It might even inspire them to respect their own tariffs. Thank you, Mr. Chairman.

[Animalport News, issued No. 4, May 20, 1974, and issue No. 5, June 25, 1974, submitted by Mrs. Brisk are retained in the subcommittee files.]

Mr. FOLEY. Thank you very much, Mrs. Brisk. We are certainly happy to have your testimony, and we want to congratulate you on your work.

If you don't mind, I think we will proceed with the usual rule of the committee and hear all of the witnesses other than those of the Government before beginning the questions.

The next witness will be Mr. John A. Hoyt, president of the Humane Society of the United States, Washington, D.C. Mr. Hoyt is accompanied by Mr. Frank J. McMahon, director of field services.

**STATEMENT OF JOHN A. HOYT, PRESIDENT, HUMANE SOCIETY
OF THE UNITED STATES, WASHINGTON, D.C., ACCOMPANIED BY
FRANK J. McMAHON, DIRECTOR OF FIELD SERVICES**

Mr. HOYT. Mr. Chairman and honorable members of this Agriculture Subcommittee on Livestock and Feed Grains, my name is John A. Hoyt. I am president and chief executive officer of the Humane Society of the United States, headquartered here in the Nation's capital.

Our society is a nonprofit, national organization which for the past 20 years has dedicated itself to the prevention of cruelty to animals and advancement of the humane ethic. Our organizational structure includes seven branch and regional offices strategically located throughout the United States and our constituency represents the largest individual membership of any national animal welfare organization. We appreciate very much this opportunity to comment on the problems and abuses associated with the shipment of animals in commerce.

Let me begin by pointing out that wholesale animal dealers are themselves partly responsible for injuries suffered by animals shipped in commerce. While there are many reputable firms supplying petshops, laboratories, individual pet purchasers, and slaughterhouses, there are also, unfortunately, wholesalers so mercenary in their approach to animal husbandry that they view their stock simply as a commodity—not as living creatures capable of feeling pain.

Many animal wholesalers, for example, are motivated by the economic consideration that volume sales over a wide distribution area will compensate for any lowering of marketability that may result from product inferiority or customer dissatisfaction. Therefore, they concentrate on the production of saleable animals with little regard for the health or quality of individual specimens.

High volume breeders in the dog trade practice this concept and are commonly called puppy mill operators. Their concerted effort and aim is to get the puppy to the petshop before it loses its infant—and, therefore, sales—appeal and is still cute. The result of this enormous trade, as many thousands of puppies are caught up in the channels of supply to petshops, is that the young animals are subjected to the stresses of being crated, trucked to an airport, transported in baggage or cargo compartments of airplanes, unloaded onto a conveyor belt, and, finally, subjected to another truck ride to the ultimate destination.

Some opponents of H.R. 15843 would have this committee believe that the problem is not severe because the numbers of animals that actually die are small. There is no validity to this contention because mortality rates are not the only, or even the major, criteria for determining animal abuse, mishandling and neglect in commerce. Far from it. In reality, the trauma produced in animals by mishandling during transportation includes physiological and psychological problems that

often do not become evident until several weeks after the animal has been shipped. Noted veterinarian and animal behaviorist, Dr. Michael Fox, has stated that the effects of this stress include infection and increased susceptibility to disease. He advises against shipping any animal before a very minimum of 8 weeks. Therefore, we feel that a more realistic age limit for shipment of certain animals in commerce should be 12 weeks rather than 8 weeks as specified in H.R. 15843.

I would like to submit seven photographs for the committee's inspection, and Mr. McMahon will circulate those photographs.

These photographs were taken at several airports by HSUS investigators. They are a sampling of the photographs in our file. All of the animals pictured were determined by humane society workers to be too young to be shipped. Unquestionably, many animals survive this kind of ordeal, but we should remember that the key words in H.R. 15843 are to "assure humane treatment of animals in the course of their transportation in commerce."

What I have said is not confined to puppies. It is equally applicable to shipments of birds, mice, monkeys, and other species often sold as pets or commonly used in research institutions.

Although H.R. 15843 concerns itself with the methods of transportation of all animals in commerce, the experience of the Humane Society of the United States is that airline and truck transportation are the least regulated and most problematic of all methods of moving animals.

Most certainly, common carriers cannot be held accountable for the improper handling of animals by their customers. There is, however, a serious question as to why infirmed, diseased, improperly loaded or crated animals and livestock are accepted for shipment by common carrier.

Mr. Chairman, I am a member of the board of directors of the Council for Livestock Protection, which is a consortium of several humane organizations and interested individuals.

Studies by this group have shown that losses of livestock transported by truck each year are fantastically high. In 1972, over 200,000 mature, full-grown hogs died in transit from overcrowding, unsuitable weather, or bad handling practices by those who handled them. It is a casualty statistic to reckon with: over 200,000 hogs weighing 200 pounds or more—alive on the farm, dead before reaching the slaughterhouse.

We lose about 39,000 calves every year in transit. We lose thousands of beef cattle and thousands more are rendered unusable because they are trampled on by other heavy animals during the transit process. There is no means of knowing the exact numbers. And, too, it is almost impossible to estimate the staggering amount of money lost each year because of bruised meat which has to be sold at lower prices.

All of these losses are due primarily to carelessness on the part of the truckers who do not stop periodically to check their loads to look for "downers." Our studies show that 20 percent of the truckers are responsible for the majority of losses in the shipment of livestock. Twenty percent of the truckers—the bad ones—cause 100 percent of the damage.

The tools that are used by careless men to drive cattle are an assortment of pain-producing devices. Sharp-pointed prods, electric prods improperly used, pitchforks, two by fours, anything that can be used to move livestock quickly without regard to the welfare of the animal.

The Council for Livestock Protection has tried for a long time to

get the three insurance companies that handle and insure animal shipments to put a rider in their policies requiring the driver of a truck in which the animals are killed or injured to pay part of the loss.

Instead, the three companies, Home, State, and Harford, continue paying 100 percent of the loss and the driver escapes responsibility. The council studied one insurance company's records in St. Paul, Minn., and found policyholders whose loss ratios were 500 percent higher than the premiums paid. They still, however, keep the same insures on the books.

The increase in the use of horse meat for human consumption and shipment overseas has resulted in widespread abuse of horses. Many purchased at auctions are not physically able to withstand transportation of any kind.

Within the last year three incidents have occurred in the State of New York involving inhumane shipment of horses to Canada for export to foreign markets. One such incident involved two horses trampled by others. Both animals were so badly injured that they had to be destroyed. Another case was the killing of several animals when the floorboards of the truck collapsed. Still another was general and unnecessary overcrowding.

Gentlemen, the Humane Society of the United States fully endorses and strongly supports H.R. 15843 to give the Secretary of Agriculture the tools needed to write rules and regulations to correct the many abuses now perpetrated upon animals being shipped in commerce, and I would add to second Mrs. Brisk's comments that they also need the money and the staff to do the job.

We urge you to consider this bill favorably and we thank you for the opportunity to express our views here today.

And either Mr. McMahon or I will be happy to answer any questions that we can, Mr. Chairman, if you have them.

Mr. FOLEY. Thank you very much, Mr. Hoyt. Your testimony has been very valuable.

I think we will proceed to hear all witnesses first and ask you and Mr. McMahon to return to the witness table for questions.

Mr. HOYT. Thank you very much.

Mr. FOLEY. The next witness will be Mrs. Peal Twyne, president of the American Horse Protection Association, Great Falls, Va.

STATEMENT OF PEARL TWYNE, PRESIDENT, AMERICAN HORSE PROTECTION ASSOCIATION, GREAT FALLS, VA.

Mrs. TWYNE. Mr. Chairman and members of the committee, I am Pearl Twyne, president of the American Horse Protection Association, on whose behalf I speak today.

We wish to express our sincere appreciation to Congressman Thomas S. Foley for introducing the much-needed humanitarian bill, H.R. 15843, an amendment to the Federal Laboratory Animal Act, which, among other important provisions, would assure the humane handling and transportation of livestock by railroad, motor carriers, and airlines.

I would like to say that most of the livestock that are carried by airlines are thoroughbred horses going from one country to another, and that sort of thing, and the airline has not the particular problem

that we have. Our biggest problem today is trucking, which has had a phenomenal growth in the last few years.

My comments on H.R. 15843 are limited to section 15, which provides for the regulation of shipments of livestock, since there are knowledgeable representatives here to speak for smaller animals. Also, my primary experience in humane transportation work is with livestock, both at State and Federal levels.

There has been no Federal legislation on humane shipment of livestock since 1906, and that only covered rail shipments. This legislation is desperately needed because of the phenomenal growth in the use of motor carriers for transporting animals. Even with the most careful drivers, animals on motor carriers can suffer severe pain and injury because of road hazards and traffic congestion through which they must pass. If animals in trucks fall and cannot regain their footing, they can be trampled, crippled, or killed by the other animals in the load. Careful drivers who stop now and then to check their precious cargo can help, but appropriate safeguards over and above a driver's concern must be enacted into law.

I would like to say that one of my experiences has been in the field of small cattle. Often very young calves are shipped, calves that are too young for veal, not proper for human use. These animals are separated from their mothers, they are frightened, they are weak. They are unable to withstand the rigors of a long trip. And about half of the load arriving at a packing plant are dead. But these animals are used in tankage, for commercial purposes, fertilizer and things like that.

Also the larger calves that can be used for veal. I have seen calves of this nature that were unloaded that were black and half conscious from the fumes and the smoke that came from the exhaust pipes of the different trucks carrying the animals. These animals stagger off when they get to these places. And the people who drive cars behind the trucks suffer from the fumes, but the animals are overwhelmed by them.

Also I would like to say that back in April I received a call from Front Royal, Va., where the driver of a large horse van with New York tags had stopped for a coffee break. It was reported to me that some of the horses in his truck had fallen and were being trampled. After the driver was told of this condition, he only shrugged and continued to finish his coffee, get in his truck in his own good time, and drive off. This is not an isolated incident. We have newspaper clippings from New York State.

We find that many horses are being purchased for food.

There has been quite a large growth in the use of horses for human consumption and dogfood due to other types of shortages. And most of these horses are purchased from the different livestock sales throughout the South and Midwest and shipped across States to New York, where they are then sent on into Canada and then put aboard ship to be transported for use in European markets. And, if permissible, I would like to submit these newspaper clippings for the record which show the abuses to these animals that are driven to New York and the Canadian markets.

Mr. FOLEY. I think they will be received for the files. Mrs. Twyne. The members will then have a better opportunity to see them.

Mrs. TWYNE. I once was driving behind a truck of animals ranging in size from pigs, young cattle, to older cattle with horns. They were mixed together and not separated by partitions as they should have been. The driver, having to stop at each traffic light, was causing the truck to sway and the horned animals to gouge the smaller animals. I pulled over and called the District of Columbia Police to stop this truck. Perhaps some of you on this committee will be as surprised as Senator Hughes was to learn that there are no Federal standards pertaining to the transportation of large animals—or, for that matter, for any animals at all. In a letter to one of our members, Senator Hughes noted that perhaps the various States should set the appropriate standards. This committee should know that although all States have laws prohibiting inhumane and cruel transportation of animals, there is very little, if any, enforcement of these State laws.

Local humane societies who are desperately trying to see that these State and local laws are enforced neither have the funds nor enough knowledgeable humane officers to take the needed action. The State police complain that they are already overburdened with matters relating to people, and, in most cases, they have no more training than the average citizen as to what constitutes inhumane transportation of animals.

Federal legislation is desperately needed to authorize the Department of Agriculture with the power to issue regulations to assure the humane handling of livestock in transportation—whether by rail, motor carrier, or airline. Since much of this transportation is in interstate commerce, it is too much to ask that the States accept this responsibility. The problem is national in scope and must be dealt with by the Congress. Consequently, some of the basic, commonsense standards which need to be enacted into Federal law are:

1. To outlaw overcrowding in vehicles which can cause suffocation, injury and death.

2. To limit a standard 10-foot by 40-foot van to no more than 20 horses. I have a picture that I would like to show you and ask it be returned. And I have pictures for the record if you would like to have them.

This is typical of the type of packing head to tail of these horses. This is similar to the trucking. That was at a livestock auction sale.

Mr. FOLEY. They may be received for the files of the committee.

Mrs. TWYNE. There are 10 horses in that 20 by 10.

And here is a truck in New York. The driver was careless, and there was an accident. And the horses were overcrowded. And the driver was arrested for cruelty and inhumane shipment of the horses.

There should be standards of padding and bedding appropriate for the season and the vehicle.

In that connection I would like to say that hogs do not sweat, and if they are overloaded in the summertime and they do not have the proper bedding, the hogs can become badly injured and even die.

We need to set out standards of padding and bedding appropriate for the season and the vehicle:

4. To adopt standards making it necessary that mixed loads should be separated by partitions to prevent bruising, suffering, crippling or death.

5. To provide that horse vans be partitioned from each other allowing 2 feet across per horse to protect from trampling any horse who

might fall, and horses do fall, because they are mixed in together, healthy horses, weak horses, and unfit horses, and the horses when they have traveled a long time are exhausted and easily fall to the floor.

I have suggested that they should rest at least every 12 hours, but I think that is too long, because animals could not rest when they were driven, they are braced the entire time, and become exhausted.

So I think that it is very important that they have regulations pertaining to the resting, watering, and so forth.

This needed Federal law would not only correct the national shame of the inhumane treatment of our animals, but it would save the millions of dollars lost to producers, packers, and eventually passed on to consumers due to the end product of animal abuses in transit—crippling, mangling, bruising, and death. This is not a matter to be taken lightly in a time when our overpopulated world is crying for beef, pork, and lamb as sources of protein at low prices. It is imperative that we quit wasting our protein resources in this inhumane fashion.

Federal legislation stopping the inhumane abuses of livestock transit is imperative.

The American Horse Protection Association strongly urges this committee to act favorably on this bill.

And we do thank you very much for the opportunity of speaking.

Mr. FOLEY. Thank you very much, Mrs. Twyne. We appreciate your statement, which certainly adds to our information on this important question.

Mrs. TWYNE. If I may, I would like to add one more sentence.

Mr. FOLEY. Sure.

Mrs. TWYNE. A lot of the horses that are being shipped out are going to Canada for exportation for human consumption. I received a newspaper clipping where the Ministry of Transport has stopped the shipment of horses by boat from Canada. And I wrote to that office, and they wrote back and said that the ban goes into effect on July 1, that it is being instituted following representation by humane societies and investigations by the Ministry of Transport which indicate that horses cannot be carried in large numbers on board ship without undue suffering. So they will no longer be allowed to ship the live animal, they will be killed in Canada and the carcasses transported.

Mr. FOLEY. Thank you very much, Mrs. Twyne.

The final witness scheduled today will be Mrs. Priscilla Benkin, animal welfare chairman, Warrenton Kennel Club, Warrenton, Va.

STATEMENT OF PRISCILLA G. BENKIN, ANIMAL WELFARE CHAIRMAN, WARRENTON KENNEL CLUB, WARRENTON, VA.

Mrs. BENKIN. Mr. Chairman, thank you for giving me the opportunity to testify on H.R. 15843, the Animal Welfare Amendments of 1974 this afternoon. My name is Priscilla G. Benkin, and I reside at 3506 Woodbine Street, Chevy Chase, Md. I am the animal welfare chairman of the Warrenton, Va., Kennel Club. As a hobby I breed and show purebred dogs. In connection with this hobby, I have done a great deal of shipping of dogs by air in the past 6 years. I am also a member of various organizations, in addition to the Warrenton Kennel Club, concerned with the dog fancy and animal welfare.

To begin with, I would like to tell you about an experience I had last year which illustrates the need to expand the present Animal Welfare Act to cover common carriers. In January 1973, I went to the air cargo facility at National Airport to pick up a dog of mine returning from some dog shows in Florida. It was midafternoon Saturday, and the weather was cold, even for January. As is my practice, I reached the air cargo building before the plane was due to land, as I have found that my presence often encourages the cargo handlers to get my dogs off the plane more quickly than they usually do.

While I was waiting, I noticed a wooden crate, of the type sold by airlines, sitting directly in front of the large door leading out to the tarmac. I have a thing about dog crates * * * I feel that they should be stowed away when not in use since their constant presence, empty, may make the cargo handlers less aware of the possibility of a live animal inside. Then my dog's crate was brought in. I noticed a movement in the other crate and asked if there was a dog in it. I was concerned because the office was due to close shortly and would not reopen for more than 36 hours.

The agent told me the crate contained "our monkey." He had arrived, as part of a large shipment, several days earlier and had escaped from his container. He had been caught that day in the office of another airline and returned to this one because they were the original carrier. He was consigned to a research laboratory in Rockville, Md. The other monkeys had been picked up upon arrival, but the laboratory did not get this one, either because they could not bother coming back for just one monkey or because he possibly had been contaminated in his 3-day tour of the air cargo building.

The agent continued by saying that he had called the laboratory, but that "The laboratory told me to kill him, but I don't have the guts to wring his neck. If you want him, you can have him."

The last thing I wanted was a monkey, any monkey, but I felt very strongly that this poor thing was, at the very least entitled to a humane death. With my 4-year-old son and dog in tow, I gathered crackers off the floor of my car and water from an airline three doors away, and gave these to the monkey. I pulled his crate away from the door and behind some large packages, and went home. The airline agent left at the same time.

From my home, I called the Washington Humane Society and explained the situation to them. Mrs. Brisk called me back that evening to say they had gotten the monkey out of the building and a volunteer was caring for him. He subsequently went to the National Zoo.

Now, in all this, no one was responsible for the poor monkey. He was left to die, and I am sure he would have died had he spent the weekend without food and water in that unheated building, because the shipper, the airline, and the laboratory had no use for him, and there were no provisions for animals in this predicament. There were also no penalties for abandoning the animal.

As far as the amendments go, I favor them. Since working with the CAB on docket 26310, I have become convinced that voluntary compliance will not work. Interagency committees will not work. What is needed now is a law to cover all common carriers, not just the airlines, to be administered by one agency, with stiff penalties for violations.

For those of us in the dog fancy, the problem is twofold. I feel that we have a responsibility not only to our own dogs, but to every animal who is shipped on an airplane, to make conditions as safe and humane as possible. Almost any evening, you can see puppies consigned to pet shops, coming through National Airport, with long delays in transit without water, in totally inadequate crates, without proper documents, and too young and in too poor condition to have been shipped in the first place.

At the same time, my personal concern and the concern of all members of the fancy, is that through one mishap, we could lose a dog which represents not only a great deal of money, but also the culmination of years of carefully planned breeding.

It is possible now for the shipper to do everything right and not be able to avoid disaster. I have a young bitch who is currently the No. 2 dog in our breed in the country. She was coming home to me, consigned air freight on a particular flight from Connecticut, when the airline, for some unknown reason, did not put her on the plane. When I got to the airport, I discovered that the manifest did not indicate the presence of live animals on board that particular flight. However, the agent told me, although the airline is supposed to note them, "We don't always do it." It turned out she was not on the flight.

I consider myself a sophisticated shipper. I made the agent call the point of origin immediately, and we discovered she had already been placed on a later flight. The original flight had taken off before I left for the airport yet the airline made no effort to notify me of the change. My telephone number was clearly visible both on the airbill and on the dog's crate. I never found out whether the first plane was too full or the ramp personnel just forgot her, but I am sure she sat on the ramp until the later flight. Fortunately, my dogs travel in the very best crates I have been able to find, they are all used to their crates, and the temperature was only 80 degrees. The declared value on this dog was \$1,000, yet, despite my taking all the precautions I could, we came very close to disaster. The only way to prevent this is to have a clear definition of responsibility, enforcement, and penalties. The problem in this case, as in most cases, lay with the ground handling, not with the actual in-flight environment.

I have listened to an executive of one of the largest carriers in the country tell me publicly that if my crate arrived intact and on time, he considered that a successful delivery, even if the dog inside had died en route. Does it surprise you then that dogs do die? At the present time, carriers treat live animals as general cargo, but charge a premium rate. In addition, there are no standard requirements or procedures although the expertise to develop them does exist.

There are two small changes I would like to see made in these amendments. In section 10b, I would like to see a time limit specified on the health certificates. One airlines' tariff currently allows health certificates to be dated as long as 90 days before the date of shipment. That is ridiculous; 5 days would be far more realistic.

Of course, there is no point in having health certificates if airline personnel do not verify that the certificate exists. In the past year I have presented valid health certificates in sealed envelopes with every dog I have shipped, and not once has the envelope been opened. I have received a 27-pound brindle female Corgi on a health certificate

made out for a 70-pound red male Doberman. While I do not expect airline personnel to distinguish between the various breeds and colors, it is quite easy to distinguish between the sexes.

The other change I would like to see made would be to section 10d. Many animals consigned for resale purposes are not picked up immediately because the consignee does not have sufficient funds to pay for the shipment. However, these shipments are c.o.d. for both the cost of shipping and the cost of the animals themselves. I would propose, instead, a ban on c.o.d. shipments covering the cost of the animals, while retaining c.o.d. shipments for the shipping charges only. The fancy does a great deal of collect shipping for legitimate purposes without affecting the care the animal receives, and to ban it would penalize people who are not at fault.

As the air traffic in dogs grows, so does the problem. At the present time, whenever I put a dog on a plane, I agonize until I know it has arrived safely. I urge you to support these amendments because we have seen in the CAB sessions that voluntary compliance and cooperative study groups simply do not accomplish these aims. Similarly, I feel that the efforts by humane groups and volunteers to care for the animals along the way, while necessary under the present laws, are only stop-gap measures. Given proper laws and enforcement, they would not be necessary.

I feel that the administration of the law should lie with the Department of Agriculture because of the availability of veterinary staff and because they currently regulate many of the preliminary steps which these animals take on the way to the terminal. I feel it would be easier for the personnel of the Department of Agriculture to consult with experts in the field of transportation than vice versa.

Thank you for this opportunity to testify. I will be glad to answer any questions you may have.

Mr. FOLEY. Thank you very much, Mrs. Benkin. We appreciate your coming today and giving us this information.

A this time we will ask the witnesses who have testified to return to the table and submit yourselves to such questions as the members of the committee may have.

Mrs. Brisk, Mr. Hoyt, Mr. Rudolph, Mr. McMahon, Mrs. Twyne, and Mrs. Benkin.

Mr. Price, any questions?

Mr. PRICE. Thank you, Mr. Chairman.

First of all, I want to say to the witnesses that I think the things that they are doing and have done are certainly commendable. And I am sure that we have not even scratched the surface of a lot of these inequities that are being forced upon dumb animals, you might say.

But on the other hand, we have to also look realistically toward helping solve that problem.

I think, Mrs. Brisk, you mentioned a while ago that you had called the airlines, asking them to hold an animal that was passing through a Federal airport. And you as an individual, or even as an association, under the law, of course, realize that you had no authority under which to hold that animal, and therefore you would be interfering with the rights of either the person who shipped the animal or the carrier which took the animal. As a Federal regulation, I don't think it will stand up

in a court of law if every person were to call about an animal in a common carrier.

What disturbs me, I am from the ranching area in Texas. And, of course, in my area we feed probably 5 or 6 million head of cattle a year, just in my district. And, of course, the transportation of livestock is the lifeblood to a lot of these livestock people. I have been a rancher all my life, and I hauled cattle and know the conditions under which they are hauled. And many of these things which you advocate are admirable.

But I might say that there are areas that could be vastly improved, but there are areas that simply would stop every truck, I would say, that is hauling animals in the panhandle of Texas and/or throughout this Nation. When we talk about complying with this bill that you must regulate the temperature, if anyone can explain to me how you can build a vehicle that you are going to transport calves in from Virginia 1,500 miles to Texas—they do have opening within the trailer where they can get air, and so forth, but I have shipped them when it is zero to 100 degrees, and these animals do suffer. And I wish there was a way, because I lost a lot of them when they got there, because they caught pneumonia en route. But I don't see how really practically we can pass a regulation that would allow the transportation of particularly livestock in that case.

And you get down to even the little trailer that the farmer might carry a group of hogs in. Or we can even get into chickens and turkeys and all other sorts of animals.

So I would like to hear your comments with regard to some of these problems that you have addressed.

Would you care to respond?

Mrs. BRISK. Yes, I would.

In regard to the dog that we tried to take to a veterinarian, I might say that if REA had respected its own tariffs, REA air express tariff No. 1, rule 19, perhaps that dog would never even have been shipped. But REA violates its own tariffs every day of the week.

Now, this matter was brought to the attention of the CAB a year ago. And we were told that nothing could be done about the violation of the tariffs. So there again, without any way to enforce the tariffs, these tariffs are not valid, they can violate them every day of the week.

Now, with regard to this particular dog, there is an anticruelty law in the State of Virginia, and although this is the Federal airport, there is no Federal anticruelty law, so therefore the anticruelty law of Virginia is observed at that airport. So under the law this animal could have and should have been taken to a veterinarian for treatment.

Mr. PRICE. Could you have filed charges?

Mrs. BRISK. I couldn't do it. A humane agent for Virginia, I understand, went over there this morning, but the dog had already gone, had already been shipped. A humane agent for Virginia I imagine could have gotten a court order this morning and taken that dog to a veterinarian. However, my point in giving you that example was that this is indeed a Federal airport and that the laws of the State of Virginia should be observed. And not only that, but REA air express is a tenant of the Federal Government. There is a lease involved. And in that lease there are certain sections, particularly one section

which says very clearly that REA air express will comply with local and State laws.

Now, I feel—and this is my personal opinion, and I may be wrong, sir, but I feel that certainly the Federal Aviation Administration could hold its tenants to the lease which they signed, and that steps could be taken particularly at a Federal airport to make sure that all those laws are complied with.

Mr. PRICE. Has your organization filed such a recommendation with the FAA?

Mrs. BRISK. We have been to the FAA, to the manager of the airport, and we have discussed the matter with him. I just don't know what has been done about it.

Mr. PRICE. Don't you feel that it is a matter of regulation—we can pass all the laws in the world, but unless people like yourself make known what you have done—and I want to compliment you for it—these cases of violation, I am sure that an airport manager would not know in many cases that they exist. So we must not be doing a good enough job.

And I am particularly interested in the cats and the dogs and things that are transported in airplanes, too. Evidently the FAA is not doing a good enough job policing the statutes that are already on the books to protect such animals. Would that be a fair statement?

Mrs. BRISK. Yes, sir, I think so.

Mr. PRICE. Do you think we need stricter regulations with regard to handling animals, not only by air, but I guess REA, too? Don't some go by trains?

Mrs. BRISK. I don't think they go on trains any more.

Mr. PRICE. On buses?

Mrs. BRISK. I don't know of any animals go on trains. Maybe they do and I am not aware of it. However, my point is that if this had been an airport that was not owned by the Federal Government, a humane agent could have gone in there and could have gotten the dog. But because the Federal Government was involved we were at a loss there as to what to do.

Mr. PRICE. One of you gentlemen may care to talk about livestock.

Mr. Hoyt, I think that many of the charges you have made in your testimony are certainly responsible charges. And I know it and you know it. But you realize also that under this bill I think we would tie up every trucker in the country that is hauling livestock. And it might tie up many of the livestock auctions in our country should this piece of legislation be enacted. This thing would completely, I think, bring the livestock industry to a halt throughout the whole United States and I have been in all my life, and I know that it would bring it to a halt. There is no way that a man can haul calves or hogs under the regulations in this bill, no way. You would have to completely reconstruct all types of carriers, and there is just no way that they can do it under the language of this bill.

Mr. HOYT. Mr. Price, I would like to respond to that.

I am not prepared to offer the specifics of what those regulations ought to be. And I certainly think that some realism has to be exercised. But I think in point of fact the trucking industry, which is not probably the major hauler of livestock, has never been affected by the regulations that applied to trains in their livestock hauling over

the years. And that is due to the fact that when that law was passed trucking was not utilized for the transportation of livestock.

Mr. PRICE. May I comment there?

Mr. HOYT. Yes.

Mr. PRICE. Doesn't the trucking industry now have a 36-hour regulation the same as the trains did?

Mr. HOYT. Absolutely not, sir. So far as my understanding of the law is concerned, there is nothing at all whatsoever that applies to the trucking industry in terms of a 36-hour law. That still is applicable to railway hauling.

And one of the reasons why, I think, that there would be so many obligations falling on the trucking industry is that it has been immune to regulation for so many years, so that it is probably a process of catching up over many, many years too quickly in terms of realism. I share your concern that there are some things that might not be feasible at all. But from the point of view of our organization and the other humane organizations, we certainly feel that there is no reason or cause that the trucking industry in their transportation of livestock ought not to come under some regulations far beyond what now exist.

And we are always trying for the optimum within what is realistically possible. I know that there are conditions under which one cannot hope to protect animals from all kinds of abuses or trauma simply by the nature of the society in which we live. But we can certainly take a giant step forward, I think, in terms of the protection of livestock in transportation. And certainly when one considers numbers it is one of the greatest areas of concern in terms of the numbers of animals that experience suffering and abuse.

Mr. PRICE. I see on page 3 of the bill that it states that you must keep these records, which I think most livestock haulers common carriers, would keep. But good heavens, you are going to have to keep track of the purchase, the sale, the transportation, identification, receiving, handling, delivery, and the previous owner of the animal. As a Member of Congress, we get complaints every day. And I am sure you in your business probably complain to Congress. You already have rules and regulations and so forth to comply with. And I think a lot of this would completely be unrealistic.

Mr. HOYT. Mr. Price, I must admit that in reading the bill myself, until I got to section 15, I was beginning to believe it had no application once again for the trucking industry. But then section 15 makes that very clear. But I am not clear myself as to whether section 15, which specifically deals with the handling of livestock in transportation, is meant also to be subject to all of the conditions that you have just alluded to in the earlier section of the bill. I certainly think that the Secretary of Agriculture needs to promulgate rulings and regulations that realistically affect the transportation of livestock. But it may be that some of these specifics mentioned earlier in the bill will not be realistic in that approach.

Mr. PRICE. One more question, Mr. Chairman.

On page 6 also it gets into:

No intermediate handler or common carrier involved in the transportation of any animal in commerce shall participate in any arrangement or engage in any practice under which the cost of such animal or the cost of the transportation of such animal is to be paid and collected upon delivery of the animal to the consignee.

Good heavens, they are getting into the buying and selling of the animal. I think certainly this language can stand a lot of cleaning up, to be frank. Otherwise I would say this bill is not going to get to first base.

Thank you, Mr. Chairman.

Mr. BERGLAND (now presiding). Thank you very much, Mr. Price.

I have one question. Would any of you care to comment on a matter which, while not germane to this bill, is relevant to the whole question of animal safety. A subcommittee of the House Committee on Commerce is currently considering the issue as to whether c.o.d. shipments of pet animals ought to be permitted as a practice.

Do any of you care to comment on this?

Mrs. Benkin, you alluded to it.

Do any of the others have any suggestions on the question of c.o.d. shipments?

Mr. McMAHON. Mr. Chairman, I am Frank McMahon, the director of field services for the Humane Society of the United States. And I have been to many major airports throughout the country, and also some of our infamous puppy mills. As a matter of fact, just this weekend I know of a truck that left Kansas and drove all the way through to Boston, Mass., with 387 pure bred puppies. I tried to stop the truck in Missouri, but unfortunately I missed it.

But in answer to your specific question, I think the major abuses—and I am not going to speak for Mrs. Brisk, but I think they will want to comment on this—the major abuses that we have seen—and we have all seen them—concern themselves with the c.o.d. shipment of animals. If a shipment is c.o.d., and say it amounts to perhaps six puppies, and one of them is sick or ill or injured, the pet shop simply refuses to accept the entire shipment. And it doesn't cost him anything, it doesn't cost the shipper anything; because they are carrying insurance. But in the meantime the common carrier is left perhaps with one dead puppy or five live ones to either get back to the breeder or take to the humane society if they are lucky. And this happens over and over again. And it has been the subject of intensive comment. And I know that I have had quite a bit of experience with abuses on c.o.d. shipments.

And I think that very possibly Mrs. Brisk has more. And I am going to turn the microphone over to her, Mr. Chairman.

Mrs. BRISK. Yes, indeed, Mr. Chairman. I have seen puppies in bruised crates particularly piled up at the REA Air Express terminal at National Airport, and they can stay there a night, and they can stay there 2 days, while whoever is getting these puppies is scouting around for some money to pay for them, or maybe in the meantime he has changed his mind, maybe business isn't as good as it was, and he doesn't want these puppies. So these puppies will sit around in that terminal until the petshop owner decides whether he wants them or not, or whether he has got the money, or maybe he just wants to take a look at them to see if that is what he really wants and then send them back. Ordinarily these animals would not get any care at all, no food or any water, the crates would never be opened. To turn those animals around and send them right back where they came from is a cruel practice.

As I said in my statement, animals are not merchandise. They are

not inanimate objects. They suffer. And therefore they should not be sent c.o.d., because there the suffering is very apparent to us.

Mr. BERGLAND. Did I understand you to say that the majority of these problems derived from the c.o.d. question?

Mrs. BRISK. A great many do.

Mr. McMAHON. I may have said a majority, Mr. Chairman. And I meant that as regards the commercial shipment of the puppies in this heavy commercial traffic of puppies. I have been out to Kansas City where I counted over 220 crates of puppies on the conveyor belt at one time, 2 to 3 puppies per crate, and almost every one of those shipments were c.o.d. This is what I meant by the majority of the problems. I was speaking of that one particular aspect of the thing.

Mr. BERGLAND. I have no other questions. I certainly appreciate your coming here today and bringing this evidence.

And the subcommittee will stand in recess until tomorrow at 2 o'clock.

[Whereupon, at 3:30 p.m., the subcommittee recessed, to reconvene at 2 p.m., Thursday, August 8, 1974.]

ANIMAL WELFARE ACT AMENDMENTS OF 1974

THURSDAY, AUGUST 8, 1974

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON LIVESTOCK AND GRAINS
OF THE COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:45 p.m., in room 1302, Longworth House Office Building, Hon. Thomas S. Foley (chairman of the subcommittee) presiding.

Present: Representatives Foley, Bergland, Zwach, and Sebelius.

Mr. FOLEY. The subcommittee will come to order.

I want to apologize for the late beginning of the hearings. We have had a series of votes on the floor.

The first witness will be Mrs. Christine Stevens, secretary of the Society for Animal Protective Legislation, Washington, D.C.

Mrs. STEVENS. Thank you very much, Mr. Chairman. I am accompanied by Barbara Gould who is the vice president of the Society for Animal Protective Legislation; and she would like to put a film on if we have permission to do so.

Mr. FOLEY. Certainly.

STATEMENT OF CHRISTINE STEVENS, SECRETARY, SOCIETY FOR ANIMAL PROTECTIVE LEGISLATION, WASHINGTON, D.C.

Mrs. STEVENS. In the interest of time, perhaps, while getting started, I might begin with my testimony. Mr. Chairman, you will see a blue booklet like this, which contains material which you may wish to use for the files, and which I will refer to as I go along.

[Presentation of film by Mrs. Barbara Gould.]

Mrs. STEVENS. Mr. Chairman, it is a great pleasure to present testimony in support of your bill which is badly needed to end abuses suffered by animals in transit. This is a major trouble area which has been recognized by international animal protective organizations as worthy of the most serious efforts at reform.

The revolution in transportation left animals behind, first, when livestock were switched from railroads to trucks, second when smaller animals began to be sent almost entirely by air and, to an alarming degree, in class D compartments of airplanes.

Although the overwhelming majority of livestock now travel by truck instead of rail, the Congress has failed to catch up with the existing situation, and the 28-hour law applies only to the tiny minority of animals still moved on trains. Trucked livestock has no Federal protection whatever. We strongly support the move you have made to

include livestock under the humane provisions of the Animal Welfare Act.

As for the constantly increasing numbers of animals produced for the pet trade and the laboratory trade, they must be rescued from transportation in nearly airtight closets where ventilation is reduced to mere seepage of air and temperature control does not exist.

It is a tribute to the will to live that animates most creatures that only a small percentage of animals reportedly die as a result of the stress to which they are frequently subjected in air transport and in previous and subsequent handling on the ground. Even if none of them actually died, regulation is necessary to stop the suffering, shock and terror which current practices too often inflict.

The pet industry would have us believe that regulation is not needed. They have protested against the modest proposed regulations put forward by the Federal Aviation Administration, as has the Air Transport Association. The vast majority of the comments, however, were strongly in favor of the FAA proposal, and I would like to submit for the record of these hearings some of these letters. It is interesting to note that reports of mistreatment of animals not directly related to the FAA rulemaking are included in some of these letters. Since your bill, Mr. Chairman, would cover a much broader area, all types of mistreatment would properly become a Federal offense.

Professor Lorna Sadler of the University of California writes:

My animals have been sent right down the chute with the luggage on more than one occasion.

Cathy Buley, a flight attendant writes:

I have seen many animals left outside (waiting to be loaded) in wire cages in all kinds of weather (snow, rain and extreme heat). These animals are terrified by all the loud noises * * * I understand that the baggage belt at DFW has caused death to some animals because it moves so fast and has snapped the necks of these pets.

Dr. Norman H. Altman, Senior Scientist at Papanicolaou Cancer Research Institute, Miami, writes:

In the past these shipments have been handled like crates of lettuce: crowded into cargo holds and left on loading docks in adverse weather * * * It is not uncommon for animal shipments to be delayed, re-routed or "bumped" for cargo with a higher priority. This is not only harmful to the animals, but may seriously hamper important research projects.

P. M. Konrad, a breeder and exhibitor writes:

* * * there seems to be a consensus to avoid using DC 10's because of the inadequacy of the ventilation in the cargo area * * * recall a story of 3 Great Danes being shipped Denver to San Francisco and they arrived DOA—smothered! This brings up the question of waiting—prolonged waiting on the runways. Provisions ought to be made for such contingencies.

Elaine Hendricks, an airline hostess, writes:

A cargo man opened the bin of an aircraft and found a loose cat with its throat slit * * * a shipment of puppies was left in the main exposed to the cold. They were being shipped from Wichita, Kans. to Chicago, but had to change flights in Kansas City. Last Christmas in Washington, D.C. several dogs died due to similar conditions, except they were forgotten due to the holiday rush. Several months ago a shipment of birds died in Dallas because the new baggage system exerted such force that it broke their necks. Last February a baby cat was lost in baggage changing in Omaha. It was shipped back to its original point and died without food and proper care. These are just a few instances that I have encountered.

Two air hostesses, Carol Kretschmer and Lynne Davis, and a flight attendant, A. B. Holland, signed a statement concluding—

I am acutely aware of the hazards in shipping pets and other animals in the cargo sections of airlines.

A letter from the Jackson Laboratory, Bar Harbor, Maine, signed by E. P. Les, Ph.D., staff supervisor of animal health, David D. Myers, D.V.M., Ph.D., assistant director, production, and E. L. Green, Ph.D., director, states in part:

We have numerous reports of shipping containers arriving in a condition which makes it apparent that the container had been crushed or otherwise subjected to mistreatment which resulted in death or escape of mice. We have other evidence that containers were inverted or upended during all or some part of the period of transit. We have reports indicating that debilitation or death of mice or rabbits occurred due to suffocation, exposure to cold, exposure to heat and exposure to low air pressure.

Richard R. Kemp, Kemp Engineering Co., Jacksonville, Fla., writes that he—

* * * observed crates of small pets which had been placed outside the airlines baggage office on a ramp in direct sunlight on a 97 degree day, with no water or shade, until I complained to the station manager, by which time the small poodle inside the crate was almost beyond help * * * other occasions * * * unheated jetcraft baggage compartment and were almost frozen to death * * * My son, * * * Air Force officer, shipped his large dog—a full-sized male poodle—from Los Angeles to Jacksonville * * * heavy duty wood crate * * * partially crushed * * * almost frozen and sick for days after receipt * * * The writer has been a licensed pilot for over thirty years.

B. J. Lester of Neptune Beach, Fla., writes:

While I was employed at a municipal zoo in North Florida, we were shipped four sea lions via one of the major airlines. The distance involved was extensive and when the animals arrived at a stopping point in Tampa, Fla., three of the four were dead from suffocation and the fourth was very ill. She was removed from the aircraft or cargo holding area and was brought back to good health by an animal gardens there, for which we were all very grateful. The matter was hushed up by everyone because they were afraid the airlines would stop accepting wildlife shipments from dealers and zoos if anyone complained.

Nicholas Turkey Breeding Farms of Sonoma, Calif., writes:

We are in favor of the amendment to part 121 of the Federal Aviation Regulations relative to "shipment of live animals aboard aircraft" as the amendment would cover live poultry. The problem with restriction of ventilation is of particular concern to us.

Mrs. G.V.O. O'Flaherty of Richmond, Va., writes:

As an owner of a Boston Terrier a few years ago I flew here by Delta Airlines from Atlanta, Ga. to New York City when I received her back from their handling of her as cargo, she was in violent pain, half dead, suffering from, according to the veterinarian, shock and eardrum damage...

Among well thought out recommendations in the FAA letters are the following: Dennis F. Kohn, D.V.M., West Virginia University, Medical Center, Morgantown:

We understand that a "D" cargo compartment in most instances has no air conditioning and that DC-8 compartments lack an air exchange system. Another is that there is no auxiliary oxygen supply to "D" cargo compartments... The committee recommends that cargo compartment and container standards insure that proper temperature, pressure, air exchange rates, and oxygen supply are maintained on a continuous basis. We suggest, as a possible means to accomplish this, the animals be housed in the "C" compartment and that "E" type passenger environmental systems be piped into each animal container.

William F. Gill, Jr., president, Flight Engineers' International Association, writes: "... this notice continues only the initial provisions necessary to enhance the safe carriage of animals by air. We hope that this proposal will be followed by additional proposals which will at least cover the areas of: (1) Minimum standards of size and construction of shipping containers used for transport of live animals; (2) Minimum requirements of free airspace in Class D cargo compartments when live animals are carried therein which would equate animal size, animal numbers, and trip length sufficiently to give a necessary margin of survivability. Restrictions on placement and carriage of articles that could prove detrimental to the existing air supply such as dry ice, noxious fumes et cetera; (3) Minimum temperature requirements for storage of animals awaiting shipment and within cargo compartments in flight; (4) Minimum requirements for processing animal shipments before and after flight."

Robert E. Mouton, manager, Acadiana Regional Airport, writes "... we cannot recommend enough that the Department of Agriculture be assigned a specific and significant role in determining a more finite rule regulating the transport of animals (for export shipment) aboard aircraft."

Duane Best, special representative on animal transportation, Air Line Pilots Association, writes: "Live animal shipments presently constitute a greater percentage of aircargo shipments than any air carrier is willing to acknowledge. The airlines keep track only of those animals that are shipped as either checked-baggage or air freight. However, about 80 to 90 percent of all animal shipments are carried through REA Express and no records of these shipments are maintained by the airlines. Consequently, there simply is no way to obtain accurate estimates of animals that may be injured or killed during transit due to the shifting or tumbling of cargo during turbulence encounters or through acceleration and deceleration on rough runways during takeoffs and landings. . . . Consequently thousands of animals—a large percentage of them puppies bound for pet stores—are being shipped in flimsy containers which do not have the strength to withstand impact loads from falling or shifting cargo . . . the cases sometimes break, and the small animals therein (usually mice or rats) escape and roam through the tiniest of holes throughout the aircraft so long as they continue to live. Almost any flight engineer can attest to spotting these little rodents during walk-around inspections of aircraft . . . noise exposure . . . may be the major key . . . Humans who must work in the type of noise environment encountered on airport terminal ramps wear earmuffs or earplugs continuously, yet animals with far more sensitive ears (dogs howl at a siren because it irritates) are exposed to jet engine noise and particularly to the whining scream of jet auxiliary power units for extended periods while sitting on ramps or in freight carts waiting to be loaded into a cargo pit. . . . This terribly frantic activity on the part of a noise-crazed, berserk animals frequently leads to such things as collapse from heat prostration, uncontrolled defecation, urination, vomiting and, sometimes, heart failure. Trainers and breeders will attest to the fact that marked psychological changes are frequently noted to occur in animals that have undergone such an experience, and that these changes are sometimes permanent . . . noise suppression padding or insulation be used

to line any cargo area where live animals may be stowed for transport aboard aircraft."

At the recent convention of the American Veterinary Medical Association in Denver, veterinarians who stopped at the booth of the Animal Welfare Institute were asked whether they had treated clients' pets for heat prostration or injury following air shipment. The veterinarians were also asked for recommendations on temperature control, ventilation, and other matters relating to air transport. Following is a sampling of replies. Dr. Richard P. Poll of Los Angeles treated a 1-year-old male Samoyed that died of heat prostration and acute pancreatitis. His recommendation was for "constant pressure control and temperature of 70-75 F. Good fresh air circulation throughout trip. Recommend owner use tranquilizers before flight and assure that animals will be given access to water if forced to be held over at airports for stops." Dr. Richard Weidner of Baltimore, Ohio, indicated that he had treated animals for heat prostration or injury following air shipment and that the outcome "has varied depending on age and condition." His recommendation for temperature control was 60-80 F. Dr. R. L. Gillespie of Columbia, Md., has treated animals following air shipment and found "primarily hypoglycemia due to fasting young puppies 6 weeks of age for 8-10 hours." He characterized the outcome of the treatment as "fairly good," and recommended that temperature control and ventilation should be "same as in passenger compartments."

Dr. Fred L. Moss of Hitus, Okla., recommends temperature between 70 and 80 F. 10 x/min. turnover for ventilation, provision of water and shade and "someone to meet dogs upon arrival at destination; water, walk, and see animal is comfortable."

Dr. Lyman B. Crittenden of Beltsville, Md., comments on the shipping of baby chicks as follows: "Temperature control 50-85 F. Must not be stacked more than four high boxes, 4 inches from other containers. Handling on the ground before and after flights: put in shelter from cold and heat. Standard chick boxes OK if handled correctly. Handling of hatching eggs is presently extremely rough. Vibration breaks up air cell with loss of hatchability."

A particularly poignant letter which Mrs. Bemelmans, president of the Society for Animal Protective Legislation, and I recently received explained that the writer, Mrs. Jean Salerno, never took her pet by air because she had been advised that it was dangerous to do so, but she had to return urgently to New York from Florida and though she pled with the airlines that the dog only weighed 8 pounds, none would allow it in the passenger cabin. Eastern Airlines sold her a crate which she described as enormous. To quote Mrs. Salerno, "The plane was 2½ hours late, having run into a terrible storm, but when we went for our little poodle no one knew where she was. The baggage man said she was with the mail, and the mail room men said she was with baggage. Finally, after 2 of the most agonizing hours imaginable, we found her in an extremely cold, unguarded room, completely soaked from the storm outside. (Weather was about 20 degrees) shivering and huddled in one corner of this enormous and completely drenched box or crate." Mrs. Salerno concludes, "This darling little gentle dog got ill and died as a result of this obnoxious behavior on the part of airline employees, all I can say is I actually paid Eastern

Airlines \$50 to kill my precious little pet. Never, never again! Naturally, I pray for some strict legislation regarding all animal transportation—and am amazed that up to now the airlines have been literally getting away with murder. Much success to Congressman Foley's bill H.R. 15843, and thank God for people like him."

It is obvious that Mrs. Salerno never received damages for the death of her dog and that the little poodle's death would not show up in any statistic.

Here is another example, however, in which damages were paid. I quote from *Cats* magazine:

Money won't bring Sammy back, but \$500 damages paid by REA Air Express to Joe M. Fisher of Kenmore, N.Y. for shipping death of Fisher's pet cat may make airlines take notice and treat felines with more care. Fischer shipped Sammy, a white ash, from Buffalo to San Francisco, to be with Mrs. Fischer during her west coast vacation. At destination, cat was crushed by a load of baggage, for which REA offered \$75 in compensation. Attorney J. Edmund de Castro handled the case against air company for Fisher, and Muriel K. Alexander (Somerton Cattery) testified as to Sammy's true monetary value. Court awarded damages plus court costs to Fischer. A new precedent in cat jurisprudence.

If H.R. 15843 is passed and strictly enforced there should no longer be any need for suits of this kind. Suffering and death can be prevented rather than compensated for at whatever level of reimbursement. Had Sammy been an American short hair of unknown antecedents he would have suffered just as much, even though his commercial value was nil.

In the arguments over FAA and CAB proposals, commercial interests constantly refer to money, rather than to the well-being of the animals. The well-being of the animals must come first. Once that principle has been established, efforts can be turned to finding the most efficient and practical way to accomplish the transportation without unnecessary expenditure.

There has been some question about the outer limits of temperature variation which can be withstood by different species of animals. It has even been suggested that no decision should be made on requirements until stress tests have been run for the different species. Such tests would almost certainly cause extreme and unnecessary suffering to the test animals, particularly if the criterion is survivability. Certainly, humanitarians do not want any LD 50 tests run for the purpose of setting standards, nor can years of delay be tolerated while attempts are made to fund the studies and, in the somewhat unlikely event that funding is forthcoming, by further years of testing and challenging of the data. We are dealing here with a matter which can be decided on a commonsense basis, especially since guidance is already available with respect to livestock. In "Environmental Considerations for Shipment of Livestock by Air Freight," (APHIS 91-21) May 1974, the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture provides sound, practical advice and gives acceptable temperature ranges for livestock of varying ages and conditions. With the exception of day-old chicks which must be kept very warm, the general range is 40 or 50° F up to 75 to 80° F.

If the public could be assured that from now on small animals will be kept within similar temperature ranges throughout their transportation by air and in the holding areas before and after flights, and that they would be moved as rapidly as passengers are from the plane.

to the terminal building, we could breathe a sigh of relief. If we could be assured that temperatures would stay in the range of 50 to 80° F, there would be very few animals indeed that could be harmed by such a temperature variation.

The problem is that actual control of temperature is, from all I can learn, absent from class D compartments. However, certain heating ducts, I am told, do provide some heat at high altitudes, in some planes. We suggest that an amendment be added to H.R. 15843 making it mandatory that planes carrying animals have a temperature monitoring system in whatever compartment animals are carried, and that the pilot of the plane be able to read that temperature in the cockpit. In this way, pilots will be aware if any extreme of temperature is occurring. On landing, he would know whether immediate attention was required. Further, if all planes were equipped with monitoring devices, it would soon become clear what the problem is with respect to temperature.

It will be noted in the APHIS livestock chart that minimum ventilation rates are given for each type of animal. In class D compartments there is no ventilation, by definition. Therefore the amount of oxygen present at takeoff must last all the animals in the compartment for the trip. Nor is oxygen the only consideration. According to Dr. N. R. Brewer, "Air changes are important, not so much to supply oxygen and remove carbon dioxide, but to remove excess heat, moisture, odors and pollutants * * *. An animal undergoing the excitement of cargo shipment may produce heat that is five or six times the basal rate." A table is attached to the paper. Dr. Brewer also states, "It is obvious that in hot weather it is important that more space be allowed each animal unless other provisions such as adequate air conditioning or adequate ventilation—without drafts—are provided."

In an article, "The Carriage of Animals at High Altitude," by G. B. Taylor, M.R.C.V.S.—Veterinary Record, February 24, 1970—several other considerations are given. For example, "Serious injury may result from decreased atmospheric pressure resulting in diaphragmatic displacement in large bovines: colic and stomach rupture may occur in the horse." Further, "when animals make up the load and there is nobody on duty in the cabin to warn the flight engineer that there have been changes in the rear of the aircraft, damage may well be done to animals because the atmosphere has become dangerous * * * there have been cases when animals have had to take in totally dry air because the temperature has risen dangerously high. Dry respiratory mucosa resulted and, of course, there was a great deal of lung damage." Further on, discussing failure of pressurization, Dr. Taylor notes: "* * * permanent damage to the central nervous system may result if the animal is left in this state of severe anoxia for more than 2 minutes."

The many opportunities for injury of unaccompanied animals in aircraft cannot fail to give rise to most serious concern. Although proponents of the status quo argue that huge numbers of animals make successful flights and charge that the data are inadequate to show cause for changes, I would suggest to the distinguished members of this committee, that there is even less data to show that a great many animals are not harmed frequently in ways which fall short of im-

mediate death but which cause great suffering and very likely weakens the animal in undetermined ways.

It is significant that, as demonstrated in the letter to FAA by Mr. Lester there is a strong tendency to hush up animal injury and death for fear the airlines will embargo animal shipments. Many commercial shippers who are speculating in animals anyway would far prefer to take their chances on the animal's surviving long enough for them to get their money back. When we consider the exotic pet trade's principles, if that is the name for them, we must recognize that these dealers enthusiastically speculate in shipping out infant monkeys, captured through the death of the mother and often other members of the family. They are not bothered either by the frightening array of diseases that monkeys can pass on to their owners: tuberculosis, dysentery, salmonella, hepatitis, rabies, some forms of sleeping sickness and Herpesvirus simiae of which the following quote from a medical review will give some idea: "Of 18 cases recently reviewed, 16 were fatal and only 1 of the 2 survivors was able to return to a semblance of normal life." I bring out these unpleasant facts to demonstrate the attitude of those persons in the commercial pet trade who fight regulation.

Mr. FOLEY. We apologize for interrupting your testimony at this point, but we will have to be on the floor for a few minutes to vote. The subcommittee will stand in recess for 15 minutes.

[Whereupon, at 3 p.m. a recess was taken until 3:20 p.m.]

Mr. FOLEY. The subcommittee will come to order. Mrs. Stevens?

Mrs. STEVENS. Would you like me to just submit the testimony for the record?

Mr. FOLEY. An amendment I am offering today will require my presence on the floor. Mr. Zwach has, therefore, kindly consented to take the chair during my absence.

Before leaving, however, I should like to make clear for the record that you are one of the leaders who is actively concerned with improving animal welfare in the United States. As much as those of anyone else, your efforts have made possible some of the legislative measures enacted by the Congress in recent years in the field of animal welfare. I want to thank you for appearing before this subcommittee and hope that as a result of these hearings and your help, the Congress will take another step toward assuring the safe transportation of animals.

Mrs. Stevens, I hope that you will continue with your testimony despite my absence. If you prefer, however, you may submit it for the record.

Mrs. STEVENS. Well, thank you again, Mr. Chairman; we appreciate so much what you have done, we are really grateful and hope that you will be successful this time just as much as you were before. I will continue with my statement.

Perhaps if newspaper and television reporters spent more time meeting animal shipments, a more accurate picture would emerge. I would submit for the record this news story from the May 30, 1974, Rocky Mountain News which states in part:

A dozen baby prairie hawks from New York were flown to Colorado Wednesday with borrowed wings and a human escort. But—much to the embarrassment of wildlife and airline officials—only eight made it alive. As television

cameras whirled and curious passengers stared, State Wildlife Division biologist Jerry Craig stepped off a United Air Lines flight at Stapleton International Airport with a cardboard box of chirping, two-week-old birds . . . All went well as Craig opened the box and fed ground chicken to the four birds that rode with him in the passenger compartment on the flight from Chicago . . . But then they brought in a larger carton with the remaining eight hawks, who were two weeks older and had spent the two-hour flight in cargo section reserved for shipment of dogs and other pets. Anxiously opening the first compartment of the carton, Craig turned pale when he found the two occupants dead. A frantic inventory of the other three compartments turned up two more dead hawks—and four dazed, but alive birds. . . . “It apparently got too warm back there (in the cargo section)” said an equally dazed Craig. . . .

Whether it was the temperature or some other factor, this incident demonstrated clearly that the younger and more fragile birds made the trip safely in the passenger compartment while their older fellows suffered and died in the regular animal section of the aircraft. Unquestionably, the best solution to the problems of air transportation for animals would be to ship them in space whose atmospheric conditions are similar to that used for human passengers. To do this would require some leadtime so that there could be a changeover to all-animal flights in aircraft with adequate controls for temperature, humidity, and pressure; modification of some aircraft animal compartments or use of aircraft which does already have certain compartments apart from the passenger sections which have similar controls. We would suggest that a 2-year period to provide for such a change might be appropriate.

To turn to another part of H.R. 15843, the provision requiring pups to be 8 weeks of age or more before being shipped, I would submit the “availability list” from an outfit known as K-9 Association, Box 8081, Kansas City, Mo. 64114. The animals described as “younger puppies” appear toward the bottom of the list. Many of them are only 2 or 3 weeks old. There is no indication as to when they would be shipped.

The Society for Animal Protective Legislation supports the requirement for a minimum age of 8 weeks as already required by Connecticut law, and would prefer to see it set at 10 or 12 weeks to help these young animals to be better able to withstand the arduous journeys many of them will have to make.

We also wish to emphasize the importance of the prohibition against C.O.D. shipments which has led to the stranding of the unfortunate victims.

Handling of animals by REA Express is the subject of much complaint. I would submit a recent clipping from the July 24, 1974, Oklahoma City Times Action Line column as follows:

I have a claim with REA Express in the amount of \$585 for some dogs they shipped for me to New York. The dogs were mishandled and kept for three days and when the crate came back some of them were dead. I would like some word on what they plan to do on this claim. Mrs. E. S.

Irvin Greenbaum, assistant claims manager for REA in Sacramento, California, says your claim has not been forgotten but the company still is checking into the situation. When the decision is made on the claim, you will be notified, he promises. He says four of the eight dogs you shipped to the company in New York were rejected by the company and returned to the REA office here, but that you were not notified immediately because the company did not have your phone number.

Reports submitted by USDA to Senator Bellmon and placed by him in the Congressional Record October 3, 1973, show the great need for increased authority to regulate shipment of livestock by air:

1. On May 3, 1970, 307 young calves were loaded in Boston, Massachusetts, for export to Greece. Everything went wrong. The export veterinary inspections were made at a facility at Acushnet, Massachusetts, and the calves were trucked to the Boston Airport in double-decked trucks. One of the upper decks gave way, and a number of calves in the lower deck were killed or injured. Loading of the calves into containers (3-calf containers) was made in the open in cold, rainy weather. The airline had promised that loading would take place under cover but did not comply. A delay of 5 hours occurred at Frankfurt, Germany, where the crew left the plane with doors closed and no auxiliary ventilation provided. Upon unloading in Greece, 50 calves were dead and 20 more died in the next few days. The shipment was met by the Greek Minister of Agriculture and our Agricultural attache. Our Washington office did not hear of this disaster for nearly a year, and while a report was requested from the airline, it has not materialized.

2. On February 7, 1973, 10 bred Holstein-Friesian heifers and 360 Holstein heifer calves, 3 months of age, were loaded on a DCS-63F at O'Hare International Airport, Chicago, Illinois, for export to Italy. Upon arrival in Milan, Italy 47 of the calves were dead. According to the consignee and an Italian veterinarian, the animals apparently died from suffocation (lack of oxygen).

3. On July 2, 1973, 239 mixed Charolais bull calves, averaging 326 pounds, were loaded at St. Petersburg, Florida, on a Boeing 707 for export to Italy. Ten positions were double-decked and three were single-decked pens. Loading the aircraft was not made in accordance with Department recommendations. Upon arrival for refueling at J. F. Kennedy International Airport, 54 head were dead, 2 were blind (thought to be due to brain damage from lack of oxygen), one had a broken leg, and 5 were down and unable to rise. Most of the animals that died were in the upper deck. It was reported (and later confirmed) that the air-conditioning ground unit attached to the aircraft broke down 2 hours before loading was completed. Upon arrival at JFK, the captain was annoyed and reported that something was wrong with the calves and that the temperature had reached 188° F. The balance of the calves was unloaded and placed in a paddock adjacent to the "Animalport" of the ASPCA with feed and water. In the evening, 175 head of calves were loaded and according to our Agricultural Attache in Rome, arrived in Milan in good condition.

If some calves actually survived a temperature of 188° F., that is, most assuredly, not a reason for subjecting them or any other animal to transport in parts of aircraft which lack the means to control extreme temperatures. Betting on the stoicism and endurance of animals has gone on long enough. It is time to call a halt. If we can't move animals decently, they shouldn't be moved. If it costs more to move them decently, the price must be paid.

It is hardly necessary to document the suffering undergone by livestock in transit by truck, but I would submit a recent example to focus attention on the horse-meat trade which seems to be particularly abusive:

According to state police, Melvin Cain, 32, of Tansboro, N.J., was transporting 18 ponies in a 20-foot trailer. Police said the trailer was badly overcrowded and that some of the animals rode with their heads hanging out of a window. One of these animals was injured because his head kept swinging against the trailer, according to police. The entire truckload was reportedly being taken to a Hartford slaughterhouse. . . . (*New Haven Register*, July 23, 1974).

In considering the enforcement of the act over the past 8 years, we believe that the initial impact was substantial; however, we are disappointed with the degree of progress to date. A film documenting conditions in a New York laboratory a year ago demonstrates the urgent need for better enforcement of existing law and regulations, and for improvements in the regulations and the law itself. We are confident that the Congress did not have a minimum as low as this in mind when the Members unanimously voted to pass the Animal Welfare Act. Adequate veterinary care, adequate sanitation, adequate space, are all clearly lacking in this animal room. It also suggests the

urgent need to include birds among the warmblooded animals designated by the Secretary in order to deal with extreme overcrowding.

Violations documented in the film in the order of their appearance include: (1) Inadequate pest control (3.6(d)); (2) Failure to contain the animals (3.4(a)); (3) Apparent lack of adequate veterinary care (3.84(a)).

Cages for dogs as shown in the film are larger than they were before passage of the act. The size conforms, to all appearances, with the regulations. But the need of the dogs to get out of the cages should be clear to all who view the film. We trust that the bill will be amended to include exercise among its stated standards so that it will no longer be possible to block action on regulations which should have been adopted 8 years ago when the Laboratory Animal Welfare Act, Public Law 89-544, was passed.

In recent testimony (August 5, 1974, U.S. Department of the Interior hearings on "Injurious Wildlife") the cost of monkeys was cited as \$450 each. It seems strange that such expensive experimental animals should be given no better care and housing than that shown in the film.

An Animal Welfare Institute analysis of the annual reports of registered research facilities indicates very uneven reporting. It would be impossible for Congress to ascertain from even the closest examination of these reports whether or not the purposes of the Animal Welfare Act were being achieved with respect to laboratory animals. The manner in which the forms ask for information needs change. In particular, anesthetic, analgesic, and tranquilizing drugs should not be lumped together in a way which makes it appear that if any one of these classes of drugs is used at any particular time, it makes it unnecessary to use either or both of the others at another appropriate time to keep the animal comfortable.

Anesthesia is necessary for an operation; analgesics and tranquilizers are often needed after the anesthetic has worn off, but in the annual reports from research institutions there is almost no indication that this latter fact is recognized or practiced.

I would submit a copy of the analysis for the use of the subcommittee, and, if desired, for inclusion in the record of the hearings.

RECOMMENDATIONS FOR AMENDMENTS

We would suggest the following amendments to H.R. 15843:

(1) Specific requirement, effective 6 months from the date of enactment, that temperature be monitored in every area where animals are held before, during, and after actual transportation, including automatic transmission of temperature information to the individual responsible for any operation of aircraft in which unaccompanied animals are being flown.

(2) Two years from the date of enactment, atmospheric conditions which fall within the range to which human passengers are provided shall be required for transportation of all warm-blooded animals.

(3) Further definition, if this is necessary, to make an individual responsible for rough handling or other mistreatment of an animal liable under the act; that is, it should be perfectly clear that it is not only the airline that would be subject to fine, but the individual baggage handler if he is directly responsible for the cruelty.

(4) Addition of the word "exercise" following the word "rest," section 9, page 4, line 16.

(5) Substitute "ten" for "eight," section 10(c), page 5, lines 18 and 21.

Thank you very much, Mr. Chairman.

Mr. ZWACH. Thank you very much.

I think you appeared before us on the 1970 amendment.

Mrs. STEVENS. That is correct.

Mr. ZWACH. At that time I was also a member of this subcommittee.

Mrs. STEVENS. I remember it well, and we are very grateful to you.

Mr. ZWACH. If we had more time I would like to have a report from you how you think it is working now, but we'd better forgo that now.

Now, the next witness listed is Mrs. Jane Risk, director of Washington Information Services, Animal Protection Institute.

Mrs. Risk, we will take your testimony.

STATEMENT OF JANE RISK, DIRECTOR, WASHINGTON INFORMATION SERVICES, ANIMAL PROTECTION INSTITUTE OF AMERICA

Mrs. RISK. Mr. Chairman, I am Jane Risk, director of Washington Information Services for the Animal Protection Institute of America. The Animal Protection Institute is a nonprofit humane education organization with a national membership of over 45,000. Our goals include the elimination or alleviation of pain, fear, and suffering in animals.

We are very pleased to offer our enthusiastic support for H.R. 15843 which would amend the Animal Welfare Act of 1970 to assure humane treatment of animals in transport. Legislation covering common carriers has long been needed to correct the abuses which have occurred and which have resulted in the suffering, injury, and death of many animals.

There has been much publicity recently concerning less-than-humane treatment of animals in air transport, and we have received many letters from our members detailing their unfortunate experiences in shipping pets by air. As a result of this publicity and public outcry, the House Special Studies Subcommittee, after holding hearings on this problem, concluded that the degree of suffering, injury, and death of animals shipped by air is unnecessarily high, and that the present system of air transportation is not designed adequately to protect animals. The airlines presently classify animals in their tariffs as general freight, and, as a result, animals often are shipped in flimsy containers, placed in overheated or drafty warehouses that contain no special facilities for them, handled roughly by cargo handlers, exposed to adverse weather conditions during loading and unloading, and improperly stowed in cargo compartments.

Mr. Chairman, as you know, the Civil Aeronautics Board is now engaged in hearings regarding Rules and Practices Relating to Acceptance and Carriage of Live Animals in Domestic Air Freight Transportation (docket 26310), and we hope that the airlines will be required to adopt adequate handling procedures in their tariffs. However, we do feel that, in addition, the USDA should have statutory authority in setting and enforcing regulations regarding containers, feed,

water, rest, ventilation, temperature, handling, adequate veterinary care, and other factors the Secretary determines necessary in assuring humane treatment.

We are very much in favor of the provision in this bill which would prohibit, in most cases, the entry into commerce of dogs and cats less than 8 weeks of age. We also applaud the provisions which would eliminate c.o.d. shipments of animals and which would require valid health certificates for all animals shipped. In addition, we support the provision authorizing regulations to assure the humane handling of livestock.

I appreciate very much this opportunity to testify and wish to thank the committee for holding these hearings on this very important legislation.

Mr. ZWACH. Thank you very much, Mrs. Sisk; all your testimony will be in the record. I assure you that the other members will see it, will carefully review it, and it will be used in making our deliberations.

Mrs. SISK. Thank you very much.

Mr. ZWACH. Thank you very much.

Our next witness is Ms. Leila Sears, assistant vice president, American Kennel Club, New York.

Welcome, Mrs. Sears.

STATEMENT OF LEILA SEARS, ASSISTANT VICE PRESIDENT, AMERICAN KENNEL CLUB, NEW YORK, N.Y.

Ms. SEARS. Mr. Chairman and honorable members of the committee, I appreciate the opportunity to be allowed to be heard on this bill.

My name is Leila Sears, and I am assistant vice president of the American Kennel Club, and I hope to be able to show in the course of my remarks how uniquely qualified the American Kennel Club is to contribute to a general understanding of the need for H.R. 15843. And I shall offer suggestions as to direction, or directions, that proposal might be advantaged to take.

Now, that the Animal Welfare Act of 1970 has been in operation for about 2½ years, allowing for the adjustment period the USDA has needed for organizing and developing inspection services required under the 1970 act, several flaws have become evident. Inadequate—for the USDA Inspection Service projects the need for increased funds. Second, the major shortcoming of the 1970 act is the omission of specific reference to intermediate handlers of live animal cargo, and the failure of the act to define the responsibility of the carriers for live animal cargo. H. R. 15843 would insert the much needed explicit language to fill this gap.

Third, while the 1970 act provides USDA inspectors with jurisdiction to inspect research facilities, dealers and so forth, this jurisdiction does not extend to airports and cargo terminals. Conspicuously lacking is jurisdiction to regulate, let alone inspect the intermediate handlers, or common carriers, let alone enforce regulations as to how live animal cargo should be handled by these agencies.

Because the American Kennel Club is dedicated to the welfare of purebred dogs, or dogs registered, or eligible for registration with the AKC in the interest of their owners and breeders, we have developed

a monitoring system for the inspection of commercial breeders and dealers, all shippers of purebred dogs.

The expansion of this activity within our organization during the past 2 years, especially in the Midwest, had dovetailed with comparable development of inspection facilities under the auspices of USDA—coordination has been possible, and the American Kennel Club has been in a prime position to observe the test section so far in the Animal Welfare Act of 1970. We have been acutely aware of the need to amend this act along the lines proposed in H.R. 15843.

Additionally, the American Kennel Club continually received complaints by mail and by phone from owners of dogs who have had unpleasant experiences relative to air shipment of dogs; ranging from getting the run-around from cargo office staff to a frustrating lack of response when a dog had died in transit. Reports include cases where dogs have been received seriously ill, and in some cases there has been evidence that the dog was ill at the time of the shipment.

This has pointed to a need for more explicit definition of the health certificate requirement of the act. Section 13-B of H.R. 15843 requires certification "that the animals when so delivered to the carrier are sound, healthy, and in such condition that they may reasonably be expected to withstand the rigors of the intended transportation without adverse effect" removes all excuses for certifying merely that the animal has not been exposed to rabies for 30 days, or has received a certain course of inoculation.

We cannot overlook the need for uniform definition of standards for handling live cargo shipments, whether it is air, or on the ground, airport ramps, or freight offices. At the present the CAB is coordinating workshop meetings to draft such regulations, but if any regulations are to have any meaning, there must be authority for enforcement.

We concur with the opinion expressed following the September 1973 hearings before the subcommittee on the policy on air shipment of domestic animals, of Representative Hicks, chairman, that as between CAB, FAA, and USDA the latter is best equipped to take jurisdiction for enforcement of such regulations. We also concur with the Honorable Representative Whitehurst who remarked the other day, especially in reference with two points, first, the need to set a minimum age for shipment of puppies, see section 13-C of H.R. 15843; and second, that the regulations in this proposal should apply to all forms of transportation.

If special regulatory pressures are directed solely toward the airlines, the inevitable rate increases will tend to favor use by commercial shippers of dogs of other, less desirable modes of transport, such as trucks, vans, and so forth.

It has come as a surprise to us, however, that H.R. 15843 is now considered to have special reference to the shipment of larger livestock. Let us hope that, rather than to allow this feature of the bill to engender such opposition as to defeat it, there may be some reward to eliminate, exclude this—for many reasons separate legislation would be more practical and appropriate to cover livestock.

Before closing we wish to express a hope that the investigation currently in progress, under CAB docket 26310 will develop not only a workable set of carriers' rules relative to:

1. Acceptance; 2. packaging; 3. documentation (including meaningful health certification); 4. care and handling at terminals, and 5. priority of carriage to be given live animal shipments. but also that a foundation will be developed for productive cooperation, coordination between CAB and USDA in the administration and enforcement of the regulations which these studies produce.

We submit that H.R. 15843, and in particular section 16 and section 19(d) and other sections which extend the authority and jurisdiction of USDA are essential to any successful results under CAB docket 26310.

Mr. ZwACH. Is Mr. John Hannum here, he is the witness we have left. Mr. John Hannum? If he is not here, then we are finished.

We will adjourn the hearing.

[Whereupon, at 3:30 p.m. the subcommittee adjourned, to reconvene at 10 a.m., Tuesday, August 13, 1974.]

1. The first part of the paper is devoted to a general
discussion of the subject. It is shown that the
theory of the subject is very complicated and
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ANIMAL WELFARE ACT AMENDMENTS OF 1974

TUESDAY, AUGUST 13, 1974

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON LIVESTOCK AND GRAINS
OF THE COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to recess, in room 1301, Longworth House Office Building, Hon. Thomas S. Foley (chairman of the subcommittee) presiding.

Present: Representatives Foley, Sisk, Bergland, Denholm, Mayne, Zwach, Price, and Sebelius.

John Rainbolt, associate counsel; Steve Pringle, staff assistant; L. T. Easley, press assistant; and Perry Shaw, staff assistant.

Mr. SISK [presiding]. The subcommittee will come to order for purposes of a continuation of the public hearings in regard to H.R. 15843 by our colleague, Mr. Foley, on Animal Welfare Act Amendments of 1974 and related bills.

The committee has some nine witnesses that we hope to hear this morning. The Chair might announce in the beginning that we will go through and hear the witnesses and then have a question period at the end of the session in which, hopefully, if the varied witnesses can remain, we will question the witnesses en bloc.

The first witness this morning is Dr. Ronald Lamont-Havers, the Deputy Director of the National Institutes of Health, U.S. Department of Health, Education, and Welfare, here in Washington.

Dr. Lamont-Havers, we would like to have you come forward. I believe you are accompanied by Dr. Joe Held. We will be happy to hear from you and Dr. Held.

STATEMENT OF DR. RONALD LAMONT-HAVERS, DEPUTY DIRECTOR, NATIONAL INSTITUTES OF HEALTH, U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, ACCOMPANIED BY DR. JOE HELD, DIRECTOR, DIVISION OF RESEARCH SERVICES, NIH

Dr. LAMONT-HAVERS. Mr. Chairman and members of the committee, I am pleased to be here today to discuss the important issue of humane treatment and care of animals used in biomedical research. The National Institutes of Health and the Department of Health, Education, and Welfare are appreciative of this subcommittee's support for our continuing efforts to promote animal welfare, and we share with you the concern that all animals used in research receive proper handling and care.

As an agency charged by the Congress with responsibility for the conduct and support of biomedical research in order to improve the

health of the American people, the National Institutes of Health has a special concern with animal care standards. The use of animals in research is an absolutely essential part of our efforts to fulfill this responsibility.

The final determination of the effectiveness of a treatment for cancer, or any other disease, can only be known when actual tests are conducted on human patients. When scientists have developed a new drug or surgical procedure which they feel might be useful, the potential hazards or adverse effects of such untried substances or procedures cannot always be predicted.

Thus, in spite of large, and to some extent unknown, physiological differences between human beings and animals, scientists have found that in many cases the basic life processes of many animals are sufficiently similar to those of man that one may reach useful conclusions concerning the way drugs, surgery, and other therapy work without endangering human life.

It is because we have at best only partial answers to questions about man's complex biology that we are conducting research. Although we are doing all we can to refine other research procedures based on our ever-increasing source of knowledge, the use of laboratory animals remains one of our most important and vital resources in the fight against disease and illness.

Let me emphasize also that because animals are so vital to our research enterprise, we recognize our moral obligation to make every effort possible to see to it that research animals are well cared for and treated humanely.

Reinforcing this moral obligation is the practical consideration that only through the use of healthy laboratory animals can scientists obtain the accurate and reliable research results necessary to further our knowledge and the progress of medical science.

Today, hundreds of thousands of people owe their health and their lives to medical research. Most of this research required using laboratory animals. The list of those who have benefited includes burn victims, those suffering from shock and serious injury, and victims of cancer.

The giant strides in the conquest of tuberculosis and poliomyelitis—to name just two diseases—would have been impossible without the use of laboratory animals. Highly complex surgical procedures, such as the blue baby operations, artery and organ transplantations, and refinements in orthopedic surgery were based on experiments on animals.

Every man, woman, and child who has ever had a vaccination; all who take prescription drugs for diabetes, high blood pressure, and other chronic illnesses; almost everyone who has ever received treatment for a serious medical problem owes such treatment to the tremendous advances in biomedical research which in some measure was based on the use of laboratory animals.

And, of course, animals themselves have benefited from this research, since the veterinary practitioner applies the results of the same findings when treating pets and livestock.

In the United States, millions of animals are used in research annually. The National Institutes of Health alone uses approximately three-quarters of a million laboratory animals per year in its Bethesda

laboratories and 5 million in the drug screening programs of the Division of Cancer Treatment of the National Cancer Institute.

Because healthy, well-cared-for animals are so important to our medical research programs, within the past few years we have taken a number of steps to promote the welfare of laboratory animals.

In 1971, the National Institutes of Health issued a policy statement regarding the care and treatment of animals used in all of its sponsored research programs and activities. In 1973, the policy was strengthened and broadened to apply to the entire Department of Health, Education, and Welfare.

It requires that institutions that receive funds from the Department submit in writing an assurance that they have established a mechanism for evaluating their animal care programs consistent with the standards established by the Animal Welfare Act, Public Law 89-544, as amended by Public Law 91-589, and the "Guide for the Care and Use of Laboratory Animals," DHEW Publication No. (NIH) 73-23, written by the National Academy of Sciences—National Research Council.

The policy also directs review groups to note any improper or inappropriate use of animals and requires that these issues be resolved before a grant or contract can be awarded.

In addition to taking steps to insure that the present law regarding standards of animal care is carried out, the NIH also has an active animal resources program designed to increase and improve laboratory animal facilities and resources.

Projects supported through this program include the development and maintenance of colonies of special research animals, assisting institutions in complying with statutory and policy requirements for care of laboratory animals, improvement of health care and examination of environmental requirements of laboratory animals, and the gathering and dissemination of information on research animals.

Since the passage of the Animal Welfare Act of 1970, Public Law 91-579, the National Institutes of Health has invested over \$8 million in helping its grantees achieve the required standards of animal care.

In addition, about \$1 million has been invested in training of people for animal resource programs. For our intramural research program in Bethesda, a new primate building incorporating larger, improved cages has been constructed at a cost of \$1.2 million.

I can assure you, Mr. Chairman, that we recognize our obligation to insure that animals are used only where they are essential, and that those used are treated humanely not only in our own intramural program but throughout the biomedical research community.

We feel that much has been accomplished in the area of animal welfare. The existing legislation, administered by the U.S. Department of Agriculture, has enhanced our efforts to achieve the goal of assuring that all animals be well cared for. The NIH and DHEW have worked closely with the USDA over the years in promulgating appropriate regulations and in coordinating efforts to execute the Animal Welfare Act, as amended.

Mr. Chairman, I have not dealt with the specific issue of animal transportation to which H.R. 15843 addresses itself. The DHEW has

neither the authority nor the expertise to speak to these problems, and we defer to the USDA on this matter.

In conclusion, let me assure you we share the concern expressed by many about the humane treatment of animals. The NIH and the DHEW stand willing and ready to work with the USDA and any other agencies concerned with the welfare of animals.

I am happy to have had this opportunity to discuss the efforts of the National Institutes of Health in this important area of concern. I would be pleased to answer any questions you may have at this time or at a later date.

Mr. SISK. Thank you, very much for your very excellent statement.

Dr. Held, did you wish to make any comments at this time?

Dr. HELD. No, Mr. Chairman, not unless someone on the committee would have a question for us at this time.

Mr. SISK. I was going to suggest, Dr. Lamont-Havers, if either one can remain, I realize you are heavily engaged, but it might be better if we can question en bloc. If Dr. Held can remain, it would be helpful.

Dr. LAMONT-HAVERS. Thank you.

Mr. SISK. Our next witness is Dr. Bruce Ewald, president, Laboratory Animal Science, Cornell University Medical College in New York.

Dr. Ewald, we will be happy to hear from you now.

STATEMENT OF DR. BRUCE EWALD, DIRECTOR, LABORATORY ANIMAL SCIENCE, CORNELL UNIVERSITY MEDICAL COLLEGE, NEW YORK, N.Y., AND PRESIDENT, AMERICAN ASSOCIATION FOR LABORATORY ANIMAL SCIENCE

Dr. EWALD. Mr. Chairman and members of the committee, I appreciate this opportunity to present testimony in support of the intent of bill H.R. 15803 introduced by Mr. Foley.

I represent the American Association for Laboratory Animal Science (AALAS) whose members include animal handlers and technicians, veterinarians, research investigators and breeders of laboratory animals, who are professionally concerned with the care of laboratory animals. Included in its membership of over 2,200 individual members and 285 institutional members, are such organizations as Battelle Northwest, the University of Texas, the National Institutes of Health, Ciba-Geigy Corp. and Charles River Breeding Laboratories, Inc. (A complete list of institutional members is retained in the committee files.)

The common goal of the members of AALAS is to improve the well-being of laboratory animals by improving methods of husbandry and health care. AALAS has a long history of interest in animal transportation as evidenced by its membership on the National Council on Animal Transportation, seminars at national meetings, scientific articles in its journal *Laboratory Animal Science* and, most recently, we have filed as a party to intervene in the Civil Aeronautics Board Docket No. 26310 (rules and practices relating to the acceptance and carriage of live animals in domestic air freight transportation).

Presently, the shipment of laboratory animals, except by common carrier, is governed by the rules and regulations developed by the Department of Agriculture under the Animal Welfare Act of 1970. The

provisions relating to transportation are in sections 3.11-3.14, 3.35-3.38, 3.60-3.63, 3.85-3.88 and 3.111-3.114.

Laboratory animal suppliers are required by some users to comply with the procurement standards concerning transportation as developed with the aid of AALAS members by the Institutes of Laboratory Animal Resources, National Academy of Sciences.

Medical researchers depend upon a rapid and humane method of animal transportation in order to study the cause, prevention, and treatment of disease and to test the safety and efficacy of drugs used both for human and animal use. A reduction in the number of animals required for each experiment and suffering due to animal disease problems has been accomplished by recent advances in animal husbandry.

Due to the excessive cost and space involved for these new germ-free and barrier facilities it is impractical for each facility using laboratory animals to breed all its own animals. This has resulted in large animal breeding facilities such as the Jackson Laboratory in Bar Harbor, Maine, that ships over 2 million mice and rabbits yearly to 250 localities throughout the United States and Canada.

Many of these mice are unique strains that have such conditions as muscular dystrophy, obesity, and diabetes. The research community is not only concerned that laboratory animals are received alive and unharmed, but they are concerned that these animals are not unduly stressed.

Excessive stress during shipment can result in loss of weight, susceptibility to disease and alterations in normal body functions that interfere with research projects. Guaranteed time of delivery is also necessary since often animals must be received at a specific age. This is true of many bioassay tests used for the diagnosis of reproductive disorders in humans which require 21-day-old mice.

Breeders of laboratory animals have had difficulty in insuring rapid air shipment of animals because some airlines arbitrarily limit the number of animals per plane. Animals have no priority over such inanimate objects as baggage, air mail and other air express items. This problem became acute during the last Christmas holiday season when REA requested that laboratory animal suppliers not ship laboratory animals. Life saving diagnostic tests requiring animals and animal research must be conducted 52 weeks of the year.

The greatest mortality and morbidity of laboratory animals during transit occurs in the summer months. Elevated temperatures can occur inside shipping containers if they are left in the sun or in unventilated buildings. In the summer, trucking of animals from the airport to research facilities in closed vans without any method of temperature control or ventilation can also be a problem. Problems are compounded if there are delays in shipping due to improper routing of animals.

AALAS supports any legislation that will improve the humane transportation of animals without adding unnecessary provisions that would decrease the availability of rapid transportation, prove injurious to animals, or restrict research. AALAS agrees with the intent of bill H.R. 15843 to improve the humane care of animals in shipment. We believe that some revisions of this bill will make it more meaningful.

Since section 10c of bill H.R. 15842 refers to the ban on the shipment of dogs and cats less than 8 weeks of age, it is important to discuss some

factors of animal development. Puppies depend upon the mother for a source of liquid food that is easily digestible. The mother also supplies warmth for the puppies since their temperature regulation mechanism is not developed for 3 weeks. Therefore, dogs and cats can be shipped prior to weaning only if their requirements for food and heat are satisfied. Puppies and litters less than 24 hours old have been transported from breeders to laboratory animal facilities by truck and air with complete success in order to study hyaline membrane disease and other respiratory problems of the newborn. It is important that the shipment of animals at any age be permitted if adequate provisions are taken for their humane care and well-being. The testing of vaccines for our pet dogs and cats is dependent upon the pharmaceutical industry receiving puppies and kittens at approximately 6 weeks of age before they had had any possible exposure to distemper and hepatitis and have developed antibodies to these diseases. Therefore, the prohibition of the shipment of animals under 8 weeks of age would have adverse effects on the pets that we are all interested in protecting.

Section 9 of the bill refers to the promulgation of standards for the shipment of animals. It is imperative that the USDA be instructed to consider the special requirements of laboratory animals when promulgating these rules.

Regulations requiring the provision of food and water to animals in shipment by the carrier or an agent of the carrier could result in the inhumane treatment and possible death of germ-free animals. Opening of the container to provide food and water to these animals would result in exposing them to bacteria causing a disease and the death of these animals. The shipper provides adequate provision for the food and water intake of germ-free animals and rodents by placing food with a high moisture content in the shipping container.

This is a proven method of maintaining laboratory animals and many colonies of guinea pigs have been raised without water by providing them with vegetables that supply the necessary water requirement. In no way should this act prohibit or require procedures or packaging that could be construed as harmful to animals or interfere with research.

The most effective method of insuring that healthy animals are shipped is to establish an adequate veterinary health care program during the raising of these animals. The rules and regulations promulgated under the Animal Welfare Act require that proper veterinary care should be provided. This provision of adequate veterinary care infers that adequate vaccination, parasite control measures, and preventive medicine procedures should be instituted.

It is difficult in a single physical examination to determine if an animal is healthy and can withstand the rigors of transportation. This is especially true with smaller animals such as guinea pigs and hamsters. Because of the numbers of animals involved, the shortage of veterinarians and the limited value of a physical examination, in smaller animals, it is recommended that in section 10 the requirement for a health certificate should apply only to dogs and cats.

Research facilities maintain complete records for breeding colonies, experimental protocols, and per diem chargeback systems. Section 8 of the bill would require research facilities to make and retain records for all animals contrary to the provisions of the Animal Welfare Act

section 10, which only requires that research facilities retain records for dogs and cats. There appears to be no logical reason for research facilities to maintain an additional set of records for the USDA for animals other than dogs and cats since it would not aid in the purpose of this act to assure the humane treatment of animals in commerce. The requirement that everyone involved during the shipment of animals would have to retain forms for every animal could result in unnecessary hardship. Thank you.

Mr. BERGLAND. Thank you very much for your very constructive comments. If you will step aside, we will ask you to return for questions.

Our next witness is Dr. H. E. Kingman, Jr., executive director of the National Society for Medical Research in Washington, D.C.

**STATEMENT OF DR. H. E. KINGMAN, JR., EXECUTIVE DIRECTOR,
NATIONAL SOCIETY FOR MEDICAL RESEARCH, WASHINGTON,
D.C.**

Dr. KINGMAN. Thank you very much, Mr. Chairman, and members of the subcommittee.

I appreciate very much having this opportunity to present a few observations and comments with respect to H.R. 15843 introduced by the chairman of this subcommittee.

Research workers and educators, especially those in the biological sciences have a keen interest in legislation which could affect the availability as well as the cost and quality of laboratory animals which are essential to continued progress in medical science.

The act of 1966, Public Law 89-544, clearly envisioned the establishment of standards for proper transportation of animals, at that time limited to dogs and cats destined for research facilities.

After 4 years of experience with Public Law 89-544, in spite of continued problems in obtaining adequate funds for construction of research facilities, the scientific community agreed that the minimum standards for housing, feeding, watering, sanitation, ventilating, temperature, separation by species, and adequate veterinary care should apply not only during procurement, transport, and holding of these animals prior to research, but also throughout the laboratory, provided adequate safeguards are maintained to avoid any interference with actual research design and performance.

The expanded coverage was contained in the Animal Welfare Act of 1970 and passed by the House of Representatives on December 7, 1970. The distinguished chairman of this subcommittee was at that time instrumental in developing the language of the 1970 amendments so as to preserve the absolute authority of the research institutions to conduct research experiments so this country's enlightened leadership in biomedical research would not in any way be diminished.

During the 4 years since the enactment of the Animal Welfare Act of 1970, this important concept, which is our primary concern, has been maintained.

The amendments proposed in H.R. 15843 appear to further strengthen the Secretary of Agriculture's enforcement authority by broadening the statutory concept of "commerce" as it relates to animals coming under the purview of the Animal Welfare Act.

We recognize there are problems encountered in shipping laboratory animals and applaud the efforts of the subcommittee in bringing about reforms which will alleviate many of the difficulties now experienced in research facilities.

One note of caution, however, should be raised. Additional species of animals, especially those in the hands of exhibitors and pet shops, were brought under the act by the 1970 amendments. While there are a great many different animals used as laboratory models in research and teaching, the breeders, the suppliers, the dealers, and, in some instances, the transporters of research animals are distinctly separate segments within the animal trade industry.

One might rationalize that what is required for a particular animal would apply to all species, but this does not follow to a logical conclusion.

When the legislation sponsored by Mr. Poage was under consideration 8 years ago the research community pointed out that flagrant animal abuse, particularly outside the research community, should be brought under the act. This was done in full confidence that medical research would not be seriously affected as instances of abuse are few and far between in research laboratories across the nation.

However, Mr. Chairman, if we continue to broaden the act, as envisioned by H.R. 15843, I believe it will be necessary to provide broad exemptions for animals intended for research, in order to make the act a realistic and practical document and to not unintentionally or inadvertently impede biomedical research.

For example, the proposed change in recordkeeping contained in section 8 of the bill should not apply to research facilities. This part amends section 10 of the Animal Welfare Act, which presently requires research facilities to make and retain records with respect to purchase, sale, transportation, identification, and previous ownership only of live dogs and cats.

This section of the law received considerable attention 4 years ago when the law was being broadened to include additional species of animals and also to include dead dogs and cats under the definition of animals.

Section 11 of the Animal Welfare Act requires research facilities to mark or identify only live dogs and cats, recognizing that individual identification of animals such as guinea pigs, rabbits, hamsters, and possibly mice and rats at some future date, is impractical and would impose an unnecessary administrative and financial burden on the research facility.

The value of maintaining records by the research facility with respect to those species other than dogs and cats, appears to be highly questionable.

We would propose that the amendment to section 10 of the act contained in H.R. 15843 consist of adding the words "intermediate handlers and common carriers" following the word "dealers" in the first sentence of the section. Also, the second sentence affecting research facilities should be retained as presently written.

A number of questions have been raised regarding the proposed paragraph (b) of section 13 which would require health certificates to be issued by a veterinarian licensed to practice veterinary medicine for all the animals regulated under this act.

In our opinion this requirement would serve no useful purpose for animals being moved between or to research facilities. It would create unnecessary delays in shipment and further increase the cost of these animals to research institutions which are under a constant financial strain. We urge that a provision be added to this section exempting animals moving to research facilities.

Likewise in new paragraph (c) offered as an addition to section 13 of the act, the need to regulate the shipment of puppies to a pet shop is quite a different matter than the procurement and transportation of laboratory animals, many of which are much younger than the 8 weeks of age stipulated in the bill. Here again an exemption for laboratory animals appears to be appropriate.

While the provision of section 15 of H.R. 15843 would not directly concern biomedical research and testing or medical education, I found this inclusion in a bill amending the Animal Welfare Act to be of personal interest to me largely because of my prior association with the livestock and meat industry.

Livestock Conservation, Inc., a distinctly separate organization from the Council for Livestock Protection referred to in testimony last week, has for many years worked closely with the Department of Agriculture in attempting to eliminate all conditions, including transport losses, that reduce the value of livestock products destined as food or fiber.

I urge that the expertise of Livestock Conservation, Inc., be brought into any consideration of proposed legislation involving transport of livestock. I feel this very important subject deserves separate legislative consideration rather than given brief or passing consideration as a part of a bill amending the Animal Welfare Act.

Mr. Chairman, since H.R. 15843 touches only lightly on activities directly related to biomedical research and education, I hope you will consider the length of this statement a reflection of our overall interest in this matter and our sincere desire to participate fully and, we trust, constructively, in developing modifications in either the basic statutory authority of the Animal Welfare Act or the regulations promulgated thereunder.

We sincerely appreciate this opportunity to be heard.

Mr. BERGLAND. Thank you very much, Dr. Kingman. We do appreciate your interest in this matter.

We will call you back for questions after we have heard from the balance of our panel. Thank you.

The next witness is Mr. Marshall Meyers, transportation counsel, Pet Industry Advisory Council from Washington.

STATEMENT OF MARSHALL MEYERS, TRANSPORTATION COUNSEL, PET INDUSTRY JOINT ADVISORY COUNCIL, WASHINGTON, D.C.

Mr. MEYERS. Mr. Chairman and members of the committee. My name is Marshall Meyers. I am associated with the law firm of Meyers, Marshall & Meyers, transportation counsel to the Pet Industry Joint Advisory Council.

We are pleased to have the opportunity to present testimony with regard to the legislation pending before this committee. In particular, our comments will be directed to H.R. 15843 introduced by Mr. Foley

and H.R. 1264 introduced by Mr. Whitehurst, both bills calling for the amendment of the Animal Welfare Act of 1966, as amended.

I. THE PET INDUSTRY JOINT ADVISORY COUNCIL

The Pet Industry Joint Advisory Council consists of 20 pet industry associations. Its members are: American Pet Products Manufacturers Association, Inc., Association of Animal and Fish Distributors, Inc., Bay Area Pet Dealers Association, Florida Tropical Fish Farms Associations, Maryland Association Pet Industries, Inc., Michigan Pet Retail Association, National Association of the Pet Industry, National Association Multiple Pet Retail Outlets, National Pet Dealers and Breeders Association, National Retail Pet Supply Association, National Turtle Farmers and Shippers Association, New England Council of Retail Shops, Pet Industry Distributors Association, Pet Producers of America, Pet Retailers Organization, Inc., Retail Pet Supply Association of Illinois, Tri-State Pet Dealers Association, Tropical Fish Institute of America, United Pet Dealers Association, and Western Wholesale Pet Supply Association, Inc.

The genesis of the Pet Industry Joint Advisory Council can be traced to an awareness of responsible members in the pet industry who recognize a need for a forum for the pet industry to review jointly its practices and to present its views and policies not only to its industry, but also to those regulatory agencies who directly or indirectly affect the pet industry.

The pet industry is extensive. It employs many thousands in 50 states as well as in several foreign countries. The vast majority of the firms are small, independent businesses.

The membership of the above-named organizations are sole proprietorships, small companies, and large corporations engaged in every aspect of the pet industry. Whether breeder, manufacturer, wholesaler, or retailer, each segment of the industry is concerned with the humane treatment of animals. The members consist of breeders, brokers, and retailers of live animals, as well as manufacturers, wholesalers and retailers of pet related supplies.

The Pet Industry Joint Advisory Council represents persons who ship every conceivable specie—parakeets, canaries, finches, macaws, parrots, lovebirds, hamsters, gerbils, guinea pigs, turtles, chameleons, iguanas, snakes, lions, tigers, aardvarks, monkeys, dogs, and cats to name a few.

Live animals are sold in tens of thousands of stores throughout the country to afford the general public the opportunity to acquire pets; the related products are sold in hundreds of thousands of stores across this Nation—in every city, town, and hamlet. It is big business—just as are the humane associations.

An important activity of the Pet Industry Joint Advisory Council is the funding of research in the following areas:

1. Texas A&M—Yersinia (pasteurella) infection in dogs.
2. Texas A&M—Aquarium, bacteria.
3. University of Georgia—Micro-organisms in tropical fish entering United States.
4. University of Georgia—Wetail disease in hamsters.

5. University of Georgia—Lymphocytic chorio meningitis (LCM) in hamsters.

6. University of Southern Illinois—Tropical fish diseases.

The industry, contrary to comments made by several of the preceding witnesses, is also concerned with improving the standards, not only at the breeding level, but also at the retail level.

For a number of years the pet industry has been heavily involved in improving the conditions of transporting live animals. The industry has reviewed the causes of mortality, spot inspected air freight terminals, and cooperates with certain responsible humane organizations in a concerted effort to reduce and to eliminate inhuman treatment of any live animal.

II. ANIMAL TRANSPORTATION

Animals, other than livestock, are transported by every mode—truck, bus, ship, rail, airplane, and mail. Some animals are tendered to the common carrier by individual shippers, some by commercial shippers, some by research facilities, some by indirect carriers known as freight forwarders, and some by the postal service. To the best of our knowledge, the majority of the nonlivestock animal shipments are presently transported by intermodal service—a combination of truck and aircraft.

In terms of numbers of air shipments, REA Air Express is the most used service; in terms of numbers of animals and total pounds transported, direct air freight services of the domestic airlines far exceeds REA. It is important to distinguish the different services performed by the indirect air carrier and the direct air carrier.

REA, as an indirect air carrier, provides the shipper a nationwide door-to-door single carrier service. Air express service is performed pursuant to an agreement between REA and all but two domestic air carriers. REA provides the surface pickup and delivery service; the airlines provide the airport-to-airport line-haul portion of the move. The shipments are processed in REA operated terminals.

The airlines, as direct air carriers receive live animal shipments from the consignor at the carrier's own terminal, transport it to the destination airport, and turn it over to the consignee at the airport. The airlines do not directly provide surface transportation.

Many of the incidents complained of involve the ground handling of live animals while in the custody of REA. The level of service offered and performed by the direct air carriers is often superior to that performed by REA. The airlines should not be condemned for REA's problems; the distinction between the two types of services should be clearly made.

Prior to reviewing specific actions taken by governmental agencies, it is important that this Committee be aware of the volume of animal traffic transported in air transportation. Live animals are transported by the airlines in the following services:

1. Mail.
2. Excess baggage.
3. Accompanying the passenger.
4. Air express.
5. Air freight.

Unfortunately, freight data are not compiled on a regular basis so one must turn to the most recently compiled statistics. The following data were produced in the Civil Aeronautics Board Domestic Air Freight Rate Investigation, docket 22859. In that proceeding, the carriers conducted a survey of traffic by broad commodity descriptions. The survey was a 10-percent origin and destination air bill sampling for the 11-month period ending December 31, 1972. The survey covers only shipments carried as direct air freight; no air express, or excess baggage shipments were surveyed. The following statistics have been annualized and extended to give the number of shipments and pieces and pounds for the categories surveyed in a 12-month period:

AIR FREIGHT

	Shipments	Pieces	Pounds
Live animals, NEC ¹	30, 380	175, 520	4, 120, 180
Baby poultry	2, 600	54, 120	824, 380
Live lobsters	28, 480	74, 080	4, 104, 420
Dogs	66, 420	76, 150	4, 436, 420
Cats	9, 690	12, 510	282, 390
Birds	2, 370	16, 600	248, 290
Fish, marine, tropical	71, 100	743, 100	13, 919, 290
Total	211, 040	1, 152, 080	27, 935, 370

¹ Live animals, not elsewhere classified. Eggs hatching (3,580 shipments, 141,110 pieces, 6,520,020 lbs) have been excluded. Source CAB docket 22859; Bureau Economics Exhibits BE-D-2403.

Average weight per shipment	132. 37
Average weight per piece	24. 25
Average pieces per shipment	5. 46

During calendar year 1972, REA carried 326,700 live animal shipments consisting of 710,000 pieces and weighing 10,500,000 pounds. Of the 326,700 live animal shipments, 114,825 shipments contained dogs and cats, 52,725 contained birds, 38,475 other warmblooded, and 7,650 cold-blooded animals. Live animals amounted to approximately 5 percent of REA's total traffic in terms of numbers of shipments.

To the best of my knowledge, there are no statistics depicting the total number of shipments, pieces, and pounds of live animals transported as excess baggage or carried onboard the aircraft by passengers and stowed under passenger seats. Nor are data available on the volume of animals transported via parcel post.

There is no doubt, however, that live animal traffic, whether by commercial shipper, hobbyist or a Member of Congress, is important to the airline industry.

As all airline users are aware, the standard of care given a passenger varies dramatically from carrier to carrier; so does the standard of care for inanimate and animate freight. Five years ago not a single domestic air carrier was willing to discuss with live animal shippers the level of the rates assessed and/or the conditions of carriage relating to live animals. Due to the pressures of the Pet Industry Joint Advisory Council, several individual shippers and certain responsible humane associations, the majority of the airlines now are more than willing to sit down, discuss, resolve, and implement procedures to provide live animal shippers a level of service which is definitely required to insure humane transportation.

A case in point is the recent implementation by Delta Airlines of a program whereby some 175 to 200 employees have been designated as special agents. These special agents are assigned to airports across Delta's system. They are responsible for various types of shipments which require handling different than that afforded regular freight—live animals, other perishable traffic, hazardous materials, and so forth. True, these agents have at this time received the most rudimentary training. But, with the assistance of the pet industry, responsible humane associations, and other interested persons, I am confident that Delta would incorporate into their training programs rational procedures and instructions to educate their personnel and to govern the handling of live animal shipments. Delta, one of the live animal shippers greatest adversaries just a year ago, is today working with our industry in a most cooperative spirit. Unfortunately we cannot say this regarding certain other major domestic air carriers.

III. GOVERNMENTAL ACTIVITY

Despite some of the comments made previously, the Civil Aeronautics Board has been the one agency of the Federal Government which has brought to a head many issues regarding the transportation of live animals. It has not been derelict in its duties, it has not regulated by hysteria as has one of its counterparts, the Federal Aviation Administration.

A. CIVIL AERONAUTICS BOARD

A brief review of the activities of the Civil Aeronautics Board hopefully will assist this committee in putting into proper perspective what the Pet Industry Joint Advisory Council and other members of our industry have accomplished and are attempting to accomplish. We are somewhat amused by allegations from certain quarters about the pure profit motivations dictating our efforts. The record shows the contrary.

The Board's activities include (1) an investigation of REA's live animal rates, (2) an investigation of the airlines' live animal rates and rules, (3) an investigation of liability and claims rules and practices applicable inter alia, to live animals, (4) an investigation of carrier tariff rules and practices affecting live animals, (5) an investigation of the overall freight rate structure, specifically analyzing the time expended on handling live animals in the freight terminals, (6) a review of the international live animal rate structure, and (7) a pending live animal shipper enforcement complaint against an airline alleging tariff violations and certain discriminatory practices. Two of these proceedings are discussed herein.

1. LIVE ANIMALS INVESTIGATION

The Civil Aeronautics Board, in response to a series of complaints filed by individual members of the Pet Industry Joint Advisory Council, instituted an "Investigation of Premium Rates for Live Animals and Birds," docket 21474. That investigation involved a general review of the rates, rules, and regulations applicable to the air transportation of live animals. Under the official airline tariffs live animals were assessed premiums ranging from 100 percent of the general commodity rate up to 250 percent of the general commodity rate. In simplest

terms, a \$10 inanimate shipment would cost \$25 if it happened to be a live animal—the level of service was identical. After a complex and lengthy hearing the Board found, based upon an extensive record, that the domestic air carriers were entitled to:

1. A premium of no more than 110 percent of the general commodity rates for warmblooded animals;
2. No premium whatsoever for the transportation of coldblooded animals;
3. Similar premiums or lack thereof when live animals, warm-blooded and/or coldblooded, are transported under specific commodity rates, container rates, and minimum charge rules; and
4. Conform to and comply fully with section 221.38 of the Board's economic regulations which provides for the inclusion in the tariffs of all terms and conditions of carriage which affect the transportation of the commodity.

The record in the "Live Animals Investigation" is clear. The Board found that the only cost-related elements unique to the carriage of live animals were those costs associated with the handling of warmblooded live animals. The Board admitted on pages 29 and 30 of order 73-103:

We reach this result, not on the basis of a strict apportionment of the time and labor costs, but on an over-all appraisal of the record. No valid support for a higher figure has been vouchsafed, and the shipper parties did not object to the ten-percent premium.

In addition, we are concurring in the findings of the Judge that reasonable accessorial charges may be levied to cover the extra handling or related costs for any special services related to live animal shipments,¹ of a nature not performed in connection with the transportation of other freight, when such services and charges are described in tariffs for animals shipments and are actually performed.

The Board did not ignore, as some humane groups have asserted, the humane requirements of live animals. The level of the rates per se does not provide life. The Board, as it must in a rate investigation under the Federal Aviation Act, determine and prescribe the lawful rate, rule, or practice. Having found that the carriers did expend some additional time on warmblooded animal shipments to plan loads, to properly stow the live animals on board the aircraft, and to monitor the shipments, the Board also expressly found that the air exchange in the aircraft belly compartments, although not excessive, is sufficient to provide adequate replacement air to reduce carbon dioxide hazards.

The Board's conclusions were not based upon a record without technical data. The conclusions were not made in a vacuum nor were they coldblooded. Carriers put forward manufacturer studies which purportedly reflect the environment in which live animals are transported. The manufacturer studies allegedly depict both the upper deck and belly compartment conditions. These studies are dated and fundamentally deficient. The original study conducted by Douglas Aircraft Corp. in 1956, is the basis for subsequent studies. The 1956 study shows the carbon dioxide production and oxygen utilization of certain species of live animals at altitude and at sea level. The study sample is small; the study is scientifically deficient. The estimated budget for that study was \$8,225 and the crucial statistics are noted with a range plus or

¹ Such as providing kennels, or feeding or watering the animals.

minus 50 percent. It is from this type of scientific data that a series of armchair studies have been derived by aircraft manufacturers which have extrapolated data.

On the first day of these hearings, Robert Scherer of the Civil Aeronautics Board testified that an airline had introduced into evidence "pages and pages of graphs... showing the basal metabolic levels, and British thermal units (Btu's) given off..." Those pages and pages never made it into evidence; they were stricken from the record in docket 22859 because the rudimentary evidentiary standards could not be met. The carriers repeatedly come forward with inadequate studies depicting the aircraft environment.

It is our understanding that the Federal Aviation Administration has recently funded a research project to determine the aircraft belly compartment environment with regard to animal shipments. From the scant information we've obtained, the Federal Aviation Administration study will be limited in scope, and will be little more than one more simulated analysis. What is needed is a scientific and statistically sound study, conducted by experts independent of the various interest groups concerned. Without such objective study and analysis, the controversy regarding the aircraft environment will continue ad nauseum.

The Board, in its findings, in the "Live Animals Investigation," directed domestic air carriers to include in their respective tariffs those terms and conditions which the carrier intends to impose on the air transportation of live animals. The tariffs were also to include provisions reflecting the services undertaken or held out for the shippers of live animals. The Board clearly directed the carriers to come forward with tariff provisions; the Board at that time did not establish substantive standards. The Board required the carriers to submit such tariff revisions on or before September 14, 1973.

2. TARIFF RULES INVESTIGATION

In complying with the Board's direction, various carriers filed proposed tariff rules governing the carriage of live animals—rules which ultimately became the subject matter of the pending "Rules And Practices Relating To The Acceptance And Carriage Of Live Animals In Domestic Air Freight Transportation Investigation," docket 26310. While certain carriers are clearly flaunting the Board's direction by their nonparticipation in this investigation, the pending proceeding will result in findings by the Board that certain minimum standards must be included in the tariffs.

In the "Rules Investigation," the pet industry proposed, and the Board adopted, a new type of procedure. Working groups consisting of representatives of the Board, the carriers, the humane associations, the general public, and the shippers were established to discuss and work out appropriate standards rules, and regulations for the handling of live animals. Like a pretrial conference, the working groups will clarify and resolve many issues preliminary to submission at a formal evidentiary hearing to make such hearing more expeditious and less of a debating society. A comment by a previous witness that these working groups have not been effective is quite premature and somewhat irresponsible. The first meeting to discuss substantive issues

is scheduled for next week. To condemn the shipper/carrier/humane association attempt to resolve the issues in a cooperative spirit indicates that certain do-gooder groups are unwilling to work cooperatively.

Virtually every airline publishes in company manuals or other non-tariff publications procedures for handling live-animal shipments. Some procedures are woefully deficient; others are excellent. Such conditions are proper tariff material and should be embodied in the official tariffs on file at the Civil Aeronautics Board. The terms and conditions set forth in an effective tariff are enforceable as a matter of law. The carriers are not at liberty to ignore their own tariff rules.

The rules investigation will produce terms and conditions regulating the acceptance in carriage of live animals in air transportation. The rules will not be general in nature, but will be specifically adapted to the transportation mode being regulated by the Civil Aeronautics Board. These rules will be based upon fact, not fiction.

B. FEDERAL AVIATION ADMINISTRATION

As a result of the hearings before the House Government Operations Committee, the Federal Aviation Administration published proposed regulations regarding the stowage of live animals on board aircraft. This was clearly regulation by hysteria.

The key to the rules proposed by FAA is the rule that provides live-animal cargo, unlike other cargo, be securely attached to the cargo compartment. If the proposed regulation becomes effective without some modification, the air transportation of warm-blooded animals may well come to an abrupt halt; the need for this legislation, as it relates to air transportation, may well be moot. It is our understanding that the modification to the belly-cargo compartments to provide for the tiedown of warm-blooded animal shipments such as the FAA proposes would require aircraft modifications, which in turn would require obtaining supplemental type certificates for each individual aircraft—a most costly and time-consuming procedure. If live-animal traffic is grounded, then many Members of the Congress will be unable to take their pets home at the close of this session. The experience has shown that there is no necessity for the tiedown of live-animal cargo any more than the tiedown of other cargo. All cargo has to be firmly stowed and the existing procedures have proven adequate.

C. DEPARTMENT OF AGRICULTURE

The Animal Welfare Act of 1970, amended the 1966 Laboratory Animal Welfare Act by expanding the coverage of live animals from the original six species—dogs, cats, rabbits, guinea pigs, hamsters, and nonhuman primates—to include other warm-blooded animals designated by the Secretary. The amended act also expanded its coverage to regulate the users of such animals. Thus, large segments of the pet industry dealing in the regulated species, have become subject to the provisions of the act. The Department has determined that additional species need not now be regulated. The regulations promulgated under the act, therefore, provide standards only for the humane handling of dogs, cats, guinea pigs, hamsters, rabbits, and nonhuman primates.

For those six species the Department has promulgated general standards which govern the humane handling, care, and treatment of

animals and which affect transportation without having to regulate common carriers. The burden is placed upon the consignor who, unfortunately, under the Animal Welfare Act, is limited to dealers, research facilities, and exhibitors. Those humane standards do not apply to the same animal if you or I were handling it. What presumption of guaranteed humane treatment can be imputed to nondealers, nonresearch facilities, or nonexhibitors?

To fulfill the requirement of the act, which provides for licensing of dealers, the Department has vainly attempted to license pet-industry firms. Due to lack of staff, funds and expertise, the Department has only scratched the surface. Dr. Levine and Mr. Clark will comment in coming testimony of their personal experiences with the licensing procedures.

To mandate to the Department the total regulation of the transportation of warm-blooded animals and the common carriers providing such transportation without sufficient appropriations will be inhumane. The Department would be called upon to develop standards applicable to all modes of transportation—modes with greatly differing operational characteristics. One more regulatory body would be atop another—the Federal paperwork jungle would be further enhanced.

The agency responsible with and expert in regulating a particular transportation mode should be given the specific mandate to prescribe rules and regulations reflecting the transportation characteristics of the carriers regulated—the Department of Agriculture should be directed to prescribe general guidelines. The agency responsible for regulating the common carrier must have the ultimate responsibility in determining the rules and regulations applying to the handling of live animals by the regulated carriers.

IV. H.R. 15843 AND H.R. 1264

Turning now specifically to the two bills, H.R. 15843 and H.R. 1264. As to H.R. 15843, the Pet Industry Joint Advisory Council is in general agreement with the intent of the proposed legislation amending the Animal Welfare Act. With respect to H.R. 1264, the Pet Industry Joint Advisory Council also is in agreement with the intent of that legislation providing the licensing requirements be made applicable to and enforced on retail pet stores.

A. THE ANIMAL/WELFARE ACT IS TOO LIMITED

The present language of the Animal Welfare Act protects very few animals—the law is far too limited. If the intent is to protect animals, the Pet Industry Joint Advisory Council respectfully urges that the Animal Welfare Act be expanded to encompass all animals irrespective of the identity of the person handling the animals. If we are to insure humane treatment of animals, it makes no difference that the specie involved is classified as “livestock”, “commercial shipment”, “excess baggage”, a pet accompanying the passenger in the passenger cabin or my dachshund which I may send to my mother-in-law in lieu of boarding it in a kennel when I’m on vacation. It may be justifiable to discriminate between humans, but what justification is there to discriminate amongst other live creatures?

Although the Pet Industry Joint Advisory Council urges that all animals be afforded protection, it points out that special waivers must be granted by appropriate regulatory authorities when it has been affirmatively demonstrated that exceptions are warranted. The establishment of general standards insuring humane handling, care and treatment of animals is essential and so are exceptions to any rule. Variances therefrom for laboratory animals, for instance, are clearly dictated by the public interest; variances for individual pet owners, hobbyists, humane associations, pounds and commercial operators are not.

B. RETAIL ANIMAL FACILITIES TO BE LICENSED

The Pet Industry Joint Advisory Council concurs with the intent of the proposed amendment (H.R. 1264) to the Animal Welfare Act which would require the licensing of retail facilities. We also urge that all breeders including the most elusive hobby breeder of cats, and dogs, be licensed—they too sell to the general public. Licensing should also be extended to pounds, animal ports, and other animal facilities operated by humane associations who purport to act on behalf of the public in the protection of animals.

We do oppose the licensing of common carrier terminal facilities. The facilities of air carriers, for example, should be subject only to regulation by the Civil Aeronautics Board and/or the Federal Aviation Administration. The regulations must be closely integrated with the whole complex of regulations relating to the operation, security, and safety of the carriers' facilities and transport equipment.

Absent sufficient appropriations and staff to administer a retail licensing program, such legislation, however, may well prove meaningless and burdensome on responsible persons who would attempt to comply.

If the licensing is to be provided by rule and regulation, the law should require that such rules and regulations be promulgated only after full evidentiary hearing. The need for such evidentiary hearing is discussed hereinafter.

C. PROPOSED RECORD RETENTION REQUIREMENT IS TOO STRINGENT

Section 8 of H.R. 15843 would amend section 10 of the Animal Welfare Act by (1) imposing severe record retention requirements on common carriers, and (2) expanding the scope of the record keeping.

The proposed amendment to section 10 of the act appears at first reading to be reasonable and not burdensome. However, upon close scrutiny, this legislation would contribute to the already over burden of paperwork.

The Pet Industry Joint Advisory Council submits that this proposal would require a significant degree of duplication in record-keeping and record retention. There is no need for a common carrier to retain copies of health certificates, or other data pertaining to previous ownership or identification of a particular animal. The common carrier should be required only to retain, as they are now by law, copies of the contract of carriage between the carrier and the consignor/consignee, that is, the waybill, the bill of lading, the airbill, et cetera. If the Department of Agriculture or other appropriate agency needs to trace a shipment, it may start with the "bill" and locate the con-

signor or consignee for additional documentation. The detailed records to the extent that they are needed and required should be retained at the breeder/owner and the retail/receiver level.

While the pet industry supports the requirement of maintaining data with regard to the identification of dogs, we see little need nor practical method for applying individual identification requirements to gerbils, to aardvarks, or to parakeets, or to like animals. The Pet Industry Joint Advisory Council urges that the proposed legislation should be amended to clearly accord wide discretion to the Department of Agriculture in determining what types of records should be maintained. Animal identification, knowledge of prior ownership, or data on receiving, handling, delivery should not be frozen into statutory fiat.

D. MEANINGFUL VETERINARIAN CERTIFICATES ARE REQUIRED

Under the proposed amendments to the act, section 10(b) of H.R. 15843 provides that all warm-blooded live animal shipments would have to be accompanied with a certificate issued by a licensed veterinarian. No discretion has been left to the Department of Agriculture to exclude by regulation those warm-blooded animals which may not need such certificates. Such discretion is required.

While the pet industry does not oppose the requirement of health certificates accompanying certain animal shipments, the proposed language of the amendment leaves much to be desired. Under the present language, the statute would require that all animal shipments must be accompanied by a certificate certifying that the animals "when so delivered are sound, healthy, and in such condition that they may reasonably be expected to withstand the rigors of the intended transportation without adverse effect." If this language is to be interpreted literally, does the veterinarian have to accompany the shipment to the airport so as to certify that the shipment "when so delivered" to the carrier is sound and healthy? Or does the provision require that the certificate shall state that the animals are healthy when delivered to the carrier at origin as well as when delivered to the consignee at destination?

The certificate, in addition to certifying as to the health of the animals, must certify that the animals can be expected to withstand the "rigors" of transportation. We submit that there is not a veterinarian worth his salt who would sign a certificate in conformance with this provision. If the carriers do not know what the vehicle environment is, how can a veterinarian guesstimate the rigors to be encountered. To further compound the issue, it must be remembered that when a shipment departs from Barnes, Kans., the veterinarian may not know, nor the shipper know, the various modes of transportation which may become involved in the movement of an animal shipment from point A to point B. Just how rigorous must his certificate be?

This provision would also require that the health certificates be retained by each of the common carriers involved in the move. In many shipments, more than one common carrier may handle the shipment. What happens when a shipment, due to routing, reaches an interline point and no health certificate is available to permit the transfer? Does the shipper, out of an abundance of caution, obtain extra duplicate

original health certificates for each shipment so that he will have an adequate supply of signed certificates when the shipment is tendered to the initial carrier which determines the routing and hopefully can determine at that time the number of certificates required to accompany the shipment?

There has been no showing that the existing rules for health certificates are inadequate. Health certificates should accompany the shipment. The breeder and the ultimate consumer should retain possession of those certificates.

Admittedly, there are bad practices with regard to certain veterinarians and to certain shippers as to the methods upon which purportedly legitimate health certificates are obtained. The Department of Agriculture or other appropriate authorities should penalize the offenders. There is no need to place a burden on the common carriers to police the shippers, the veterinarians, or the Department of Agriculture.

E. THE MANDATORY 8 WEEK AGE STANDARD NEEDS MODIFICATION

The age limitations set forth in subparagraph C of section 10 of H.R. 15843 in principle is appropriate. It is not obvious where the 8 week standard is derived. If the 8 week age restriction is a happy average developed by the committee's staff to reflect weaning, the pet industry submits that 8 weeks is not necessarily a proper time frame. For dogs, some large breeds can be shipped at 6 to 7 weeks, and many small breeds should not be shipped before 10 weeks.

To provide an 8 week cut off is arbitrary. The Department of Agriculture should be authorized to promulgate regulations, based upon a duly constructed record setting the age limitations without having to justify its using or not using 8 weeks as a standard.

Other witnesses appearing before this committee will testify as to the impact of the proposed statutory language on users of young laboratory animals. Segments of the pet industry do provide certain species of live animals to research facilities and recognize the requirement for special treatment for laboratory animals. We urge this committee to amend the statutory language to provide special consideration for such animals.

F. THE BAN ON C.O.D SHIPMENTS IS UNWARRANTED

The proposed amendment of the act to prohibit the transportation of animals subject to (1) collection of the cost of such animals and/or (2) the collection and cost of transportation under the carriers' c.o.d. rules is arbitrary and not warranted.

While clearly there have been examples of abuses of c.o.d. shipments, those abuses constitute a very small number. In the Civil Aeronautics Board liability and claims rules and practices investigation, docket 19923, Administrative Law Judge John E. Faulk found that the experience of the airlines demonstrated that there was no sound reason to deny c.o.d. service absolutely on all live animal shipments. A rule which provides that the shipper must guarantee transportation charges in both directions, plus an amount sufficient to reimburse the carrier for all out-of-pocket expenses in the care, feeding, and storage of any live animal is proper. Such requirements, not an absolute prohibition,

should be the law. The marketing value of shipping on a c.o.d. basis is an essential for live animal shipments as it is for general shipments for which c.o.d. is a most effective marketing tool.

G. WHICH GOVERNMENT AGENCY IS BEST QUALIFIED TO PROMULGATE
LIVE ANIMAL STANDARDS?

H.R. 15843 would amend section 13 of the act to vest in the Department of Agriculture the authority and the duty to promulgate standards governing the transportation of warm-blooded animals, and the handling, care, and treatment therewith by the common carrier providing such transportation. The standards must include requirements as to containers, food, water, rest, ventilation, temperature, handling, veterinary care, and such other factors as the Department deems proper.

But there is a check on the Department's authority. Section 11 of H.R. 15843 would amend section 15 of the act to vest in the Department of Transportation the authority to disapprove any standards promulgated by Agriculture in the interest of flight safety. Granted, such veto power to the Federal Aviation Administration is not new. That agency already possesses the power to negate any rule, regulation, standard or practice which adversely affects flight safety. The wording of the proposed amendment, however, would make an affirmative approval by Transportation a condition precedent to any standards becoming effective, whether or not such standard affects flight safety.

The injection in this fashion of another governmental agency creates one more built-in delay in establishing the much needed standards. The Department of Transportation should not be called upon to make continuous affirmative findings. It would be sufficient for the purpose of this legislation to specifically grant to Transportation the authority and the duty to take affirmative action to challenge any specific standards to be promulgated by any agency.

More basic is the question as to which Government agency is most qualified to evaluate the problems and to regulate through promulgation of the necessary standards. Fundamental to common carrier law is the requirement that such carriers publish in tariffs a complete description of all services held out to the general public. Those tariffs must also contain all terms and conditions which govern the services performed. Each mode of transportation falls prey to a regulatory body which has been expressly granted authority to insure that the carriers regulated publish and observe such tariffs. Those agencies also are responsible to insure that the carrier's duty to provide service is executed in a safe and adequate manner. Over the years those regulatory agencies have developed an expertise with respect to the operational characteristics of the carriers they regulate.

Under the Federal Aviation Act, all scheduled air carriers are required to publish in their tariffs detailed rules and regulations relating to the whole gamut for which H.R. 15843 would provide a rigid base. The Civil Aeronautics Board expressly found in the Live Animals Investigation that the carriers publish in nontariff publications terms and conditions of carriage affecting live animals and that such provisions must be contained in official tariffs on file with the Board. The pending Rules Investigation will specifically review the carrier practices; the Board will pass upon the reasonableness of the carrier stand-

ards and prescribe such standards as the Board deems necessary to insure that live animals will be afforded safe and adequate service, equipment, and facilities in connection with the air transportation services performed. This is the Board's mandate under the Federal Aviation Act.

We respectfully suggest therefore that the most efficient and expeditious manner for fulfilling the intent of sections 13 and 15, as amended, would be to designate the regulatory agency, such as the Civil Aeronautics Board, as the agency with primary jurisdiction to provide proceedings to build the necessary records and to approve and to prescribe standards applicable to shippers and carriers alike. The agency familiar with the operational characteristics of the carriers is better suited to adopt standards which reflect the mode regulated than an agency which only superficially would have exposure to a carrier's environment. Other interested regulatory bodies, such as the Department of Agriculture, should participate in the proceedings such as the pending rules investigation at the Civil Aeronautics Board.

V. THE DETERMINATION OF STANDARDS MUST BE PURSUANT TO AN EVIDENTIARY HEARING

Regardless of which agency has the obligation delegated to it to establish standards for the regulation of the transportation and the business practices of the live animal industry, it is imperative that such authority be exercised in a full evidentiary hearing in which all interested persons may be heard. The issues are complex—the final standards must be detailed and specific. Rulemaking by submission of written comments would be inadequate.

The experience of the pet industry before the Civil Aeronautics Board has demonstrated the necessity for putting purported "evidence" to the test of the evidentiary process. Half-baked studies and emotional statements must bear the scrutiny of cross-examination. Mere assertions as to "flimsy containers," "absolutely no ventilation," "pressure cookers," and so forth, absent substantiating evidence, are not proper for justifying the establishment of standards. Hardcore data are required. Such data cannot be adequately tested through rulemaking by written comment.

Inasmuch as the standards which are needed to insure the humane treatment of live animals will ultimately find their way into carrier tariffs, there appears to be no necessity for circumventing the hearing process by which the regulatory agency is directed to prescribe rates and practices. Thus, we urge this committee to amend the Animal Welfare Act to provide for such procedures.

Once the standards have been implemented, however, the task is far from over. The procedures for amending those standards must be flexible to respond to new developments. Rulemaking is cumbersome and slow. The tariff complaint process is not hindered by the same procedural delays.

To insure that the appropriate agencies are abreast of new developments, we urge that this committee recommend to those agencies the creation of advisory committees as provided for under the Federal Advisory Committee Act. This would provide those agencies with continuous input as to the needs of the parties.

Thank you, Mr. Chairman.

Mr. BERGLAND. Thank you very much. Your testimony was replete with evidence and many constructive suggestions. We appreciate the time and effort you have put in to preparing.

Our next witness is Dr. Irving Cashell, Veterinarian, Georgetown Animal Hospital, Washington, D.C. representing the American Veterinary Medical Association.

Doctor, we are pleased that you have come.

STATEMENT OF DR. IRVING CASHELL, VETERINARIAN, GEORGETOWN ANIMAL HOSPITAL, WASHINGTON, D.C., REPRESENTING AMERICAN VETERINARY MEDICAL ASSOCIATION, AND DR. FRANK TODD, WASHINGTON REPRESENTATIVE, AMERICAN VETERINARY MEDICAL ASSOCIATION

Dr. CASHELL. Mr. Chairman and members of the committee, I am Irving Cashell, engaged in the private practice of veterinary medicine in Washington, D.C. I am representing the American Veterinary Medical Association, which appreciates this opportunity to present its views regarding this proposed legislation.

I have with me Dr. Frank Todd, the Washington representative of the American Veterinary Medical Association.

Our review of H.R. 15843 leads us to believe that many aspects of the bill would strengthen the present Animal Welfare Act and thus provide for greater assurances of safe, humane handling for animals in shipment.

We would like to speak specifically to the provision of section 10 and the responsibilities relating to veterinarians. We believe that it is entirely appropriate that a health certificate issued by a licensed veterinarian be required for animals in shipment by common carrier whether interstate or intrastate.

Such a certificate should show that the veterinarian finds, upon examination or inspection, that the animals described are free from visible signs of infectious or contagious disease. These are assurances that a veterinarian can give.

The provision of this section which would require the veterinarian to indicate that the animals are "in such condition that they may reasonably be expected to withstand the rigors of the intended transportation without adverse effects" is a requirement with which a veterinarian can not comply and is an inappropriate expectation of the veterinarian.

There have been many indications in the past few years that the conditions of transportation of animals are extremely variable and this applies particularly to air transport. I would call your attention to the report by the Committee on Government Operations of the House of Representatives in 1973, "Problems in Air Shipment of Domestic Animals."

The findings and conclusions include the following statements:

The majority of animals shipped by air arrive safely but in too many instances animals suffer mistreatment. The number of instances and the precise degree of suffering, injury, and death cannot be satisfactorily determined, but all parties concerned agree that it is unnecessarily high.

The present transportation system is not designed adequately to protect animals. The air lines presently classify animals in their tariffs as "general

freight" and, as a result, animals often are shipped in flimsy, unsafe containers, placed in over-heated or drafty warehouses that contain no special facilities for housing animals, handled roughly by cargo handlers, exposed to adverse weather conditions during loading and unloading, and improperly stowed in cargo departments.

Because of the obvious unpredictable nature of transportation, particularly air transportation, a veterinarian cannot be expected to certify that an animal is in condition to sustain the rigors of the intended travel.

The only way he could make such a statement would be to know that animals in shipment would be handled in a consistent manner with temperature ranges, air pressure ranges, storage times, and feeding conditions that are constant and reliable.

These constant, reliable conditions apparently do not exist. It is our opinion, therefore, that this provision of H.R. 15843 is unworkable and inappropriate. It would appear that methods must be developed to assure competent, humane handling in transportation before such a provision could be made to be workable.

The veterinarian can certify only that which he can observe and otherwise ascertain by whatever examination or inspection procedures he may apply. Certainly he cannot perform an examination in such detail that he can certify to such general terms as sound and healthy.

These terms are far too inclusive. For example, a serious cardiovascular defect which could be diagnosed with the aid of electrocardiography could completely escape detection by ordinary and acceptable examination procedures.

Electrocardiography certainly can't be justified for examinations such as are appropriate for health certificates. It is therefore essential to use specific terms to define the desired action of the veterinarian.

We would, therefore, suggest that the wording on page 5, beginning on line 8 and continuing through line 10, should be as follows:

When inspected by him are free from overt signs of infectious or contagious disease and other significant disorders.

Thank you for this opportunity to present our views. If you have any questions, I will be pleased to attempt to answer them.

Mr. BERGLAND. Thank you very much, Dr. Cashell, for bringing a new perspective to these proceedings. If you will stand aside until we have heard from the rest of the panelists, we will be much obliged.

Our next witness is Mr. Robert Bronner of Cosmopolitan Canine Carriers, Inc., from Darien, Conn. We are pleased to have you here.

STATEMENT OF ROBERT BRONNER, VICE PRESIDENT, COSMOPOLITAN CANINE CARRIERS, INC., DARIEN, CONN.

Mr. BRONNER. Good morning, Mr. Chairman and gentlemen. My name is Robert Bronner and I am vice president of Cosmopolitan Canine Carriers, Inc., of Darien, Conn.

We are very grateful to the subcommittee for inviting us to testify on a subject we are intimately familiar with, and concerning which we are confident that the committee and Congress will provide long needed regulation.

Cosmopolitan Canine Carriers was recently granted authority by the Interstate Commerce Commission at Docket MC 138940 to trans-

port dogs and cats between all points in the United States. Our authority is restricted to transportation of these animals, having an immediately prior or subsequent movement by air.

At the outset, it should be noted that we intentionally restricted our operation in that manner for a number of reasons:

1. Dogs and cats comprise the largest number of warmblooded animals currently being transported in the United States;
2. Due to the directly related increase in trauma to animals during transportation of any form, trauma is substantially reduced by providing the bulk of movement by air; and
3. There simply has not been a carrier which provides the specialization necessary to insure safe, efficient and humane transportation of these commodities.

In terms of experience in the transportation field, I was with REA Express as director of regional sales and manager of air express. I was with Genesco as traffic coordinator of international operations, and was vice president with A. R. Traffic Consultants of New York City.

The president of Cosmopolitan Canine Carriers, John Hollywood, of New York City, was with United Parcel Service for 11 years in a variety of functions, and later with Capital Parcel Service as operations manager.

While waiting confirmation of our Interstate Commerce Commission authority, the corporation was involved in extensive distribution of pet food, pet accessories, and pet transport kennels. In the process of distributing such products, our staff has developed a perhaps unparalleled expertise in the care and handling of dogs and cats in transit.

Industrywide figures on the air or ground shipment of dogs and cats are unfortunately not available, but there are significant indices. United Air Lines, for example, was widely advertising shipping over 50,000 dogs per year some time ago.

REA, the only other corporation authorized to transport dogs and cats nationwide, estimated its 1972 profits in animal traffic at \$6 million. During the same year, the merchandising by puppy mills in the four-State area of Kansas, Iowa, Missouri, and Nebraska, represented a figure of some \$40 million.

Humane Society sources have reported that the number of animals shipped by air annually is in the millions. Considering this massive volume of animal transportation, it has become all too apparent that existing carriers have been unwilling, unable, or disinterested in providing services which will insure the health, safety, and relative comfort of animals.

They are willing to earn gigantic profits transporting. (See, for example, Deaths by Heat Prostration and Freezing, New York Times, February 24, 1971, 81:6; Deaths and Injuries Compared to Substantial Profits of Carriers, New York Times, March 1, 1971, 28:1; Death of 13 Puppies Transported in Orange Crates, July 29, 1972).

The January 1973 issue of Airline Pilot, the magazine of the Airline Pilots Association, featured an article itemizing cases of dogs deaths due to asphyxiation, heat prostration, and freezing during transportation, concluding:

In short, most living beings going by air are being treated as cargo. To an airline cargo handler a box full of mice is just another item that must be lifted

and placed somewhere else for movement out of his jurisdiction. His only interest is in moving it, not worrying about its contents.

A freight forwarder or REA Air Express dock worker treats live creatures the same way. Death, injury, or loss of live animals and birds has apparently reached a point where the Nations Humane Societies consider it a major issue in their crusade for better treatment of all living animals.

In response to that state of affairs, our criminal Interstate Commerce Commission application was supported by a spectrum of businesses which would continuously utilize the proposed services: Dog and cat breeders, trainers, kennel clubs, wholesalers, retailers, and by way of referral, household goods carriers.

Their statements recounted numerous incidents of death and injury to animals transported by surface carriers for various reasons: prolonged exposure to heat, cold, or exhaust fumes in vehicles ill-equipped for animal transportation; lack of ventilation in vehicles; extensive delays or rerouting during which animals are wholly unattended; and general lack of attention, resulting in severe dehydration and other illnesses and, on occasion, death.

By way of example, the following would be typical, from our research, of a move from an airport terminal to a final destination point by REA Air Express, Emery Air Freight, or other air freight forwarders: Pick-up by carrier at air terminal 3 to 7 hours after actual arrival and up to 12 hours for delivery to the ultimate consignee at a distance of 35 miles from air terminal.

This delivery process in conditions where the animal is treated simply as general commodities (as defined by the Interstate Commerce Commission).

As this honorable subcommittee is undoubtedly aware, the Civil Aeronautics Board has already conducted extensive investigations and promulgated regulations designed to insure the humane treatment of animals transported by air.

United Airlines, for example, complying with CAB Order 73-6-103, has filed a detailed positive tariff itemizing categories and costs of services they will provide for animals. Unfortunately, there is no such order or regulation yet promulgated by the Interstate Commerce Commission.

Our company is aware of at least three applications currently pending before the Interstate Commerce Commission to transport pets. These applications provide for virtually no humane considerations and would, if granted, allow for transportation of 120 to 400 pets per small van, as if they were old shoes.

At this point, it is perhaps apparent that the enactment of this bill, H.R. 15843, and regulations effectuating it, will involve the jurisdiction of a number of Federal agencies, for example, the Interstate Commerce Commission, the Civil Aeronautics Board, and so forth.

Cosmopolitan Canine Carriers, as a common carrier for hire, is hopeful that this bill might be so amended by this committee as to require other Federal agencies to cooperate in its enforcement (as was done, for example, in promulgation of the National Environmental Policy Act).

This would be very significant in Interstate Commerce Commission proceedings where fitness and the public convenience and necessity are the critical criteria. In other words, this legislation should hopefully promote cooperative monitoring enforcement and reporting between

the Department of Agriculture and the Interstate Commerce Commission in a manner similar to that now recommended between Agriculture, the CAB, and the FAA in air transit.

To turn to the details of the bill itself, Cosmopolitan Canine Carriers heartily endorses the requirement of veterinary health certification and the prescription against transportation of animals less than 8 weeks of age.

The certification, at least, will cull from transporters, animals which, for obvious health reasons, should not be in transportation. Unfortunately, it has been our experience that health certificates simply are not checked or dealt with in any meaningful way during animal transportation.

Again, the addition of mandatory cooperation by the relevant Federal agencies and affected shippers and carriers would seem necessary. This health certification would obviously aid in the enforcement as to minimum age.

Cosmopolitan Canine Carriers, in its tariff filed with the Interstate Commerce Commission, rejects for shipment any puppy or kitten less than 10 weeks of age. In that, as we have stated, significant stress and trauma are placed on any animal during transportation. It is important not to transport animals during periods when stress and trauma may cause permanent damage, illness, or death.

The first 8 weeks of a dog's or cat's life is its weaning period, during which minimal stress may have severe effects.

My home State of Connecticut, recently observing this fact, enacted Public Act 74-22, to become Connecticut General Statutes Section 22-354, prohibiting the importation, exportation, or sale within Connecticut of any dog under 8 weeks of age.

Our company felt so strongly about the inhumanity about such transportation, as to add an additional 2 weeks to the 8-week period in order to provide a necessary safety margin.

While this has obviously had the effect of precluding us from dealing with the massive shipments by the midwestern puppy mills, we most strongly feel that we do not want to become involved with ill, neurotic, or dying animals, and further feel that such traffic should be totally prohibited. Inhumanity should be a bar to profits.

Our tariff further provides specifications for transportation kennels based on the size of the animal involved. A 22 inch by 12 inch by 15 inch kennel houses any cat, small dog, or puppy up to 15 pounds in weight. A 26 inch by 18 inch by 18 inch kennel adequately houses dogs up to 40 pounds.

A 36 inch by 22 inch by 28 inch kennel houses large dogs up to 28 inches shoulder height and over 30 pounds in weight; and finally, dogs in excess of 28 inches shoulder height are shipped in custom designed kennels.

Each kennel must have a watering trough varying in capacity, dependent on the size of the animal to be transported. In the above respective kennel sizes, one-half-, 1-, 1½-, and 2-pint capacities.

Kennels we transport must have absorption pad floor surfaces. To insure adequate ventilation our kennels must have a minimum of 36 square inches of ventilation slots distributed throughout the four wall surfaces. The number and size of ventilation slots increases from this minimum proportionately to the size of the kennel.

While our kennels are of sufficient structural strength and design to adequately protect the animals transported, we reserve the right through our tariff to reject shipments of any container supplied by a shipper "if carrier, in his discretion, believes that any such container is not of such size, condition, shape, or structural design to adequately protect the animal transported."

Ventilation and temperature ambiance are further considered by Cosmopolitan Canine Carriers in its use of relatively small air-conditioned vans for transportation of small lots of animals. Even if the air-conditioning system were to break down, by opening the forward windows of the van, sufficient ventilation may be maintained until repairs are made, even in emergency situations. American Dog Owners' Association studies indicate that temperature excursions under such conditions may vary from 4° to over 130° in a 2-hour period, without such precautions. Our drivers are provided with a list of approved veterinarians, should emergencies arise.

We also have an approved listing of boarding kennels, should their facilities be required. And, in that the key concept of Cosmopolitan Canine Carriers is specialized service, the animals in our care are not in transit for so substantial a period that our drivers need check their food and water needs other than at pickup and delivery points.

Our specialized service has resulted in a total lack of claims, a striking difference to the numerous humane association and airline reports of multiple pet deaths while in transit.

In conclusion, we feel it is most critical that this bill coordinate and foster cooperation between the various Federal agencies, shippers, and carriers affected, and that such coordination is necessary if this bill is to have any material effect.

The use of health certificates would be helpful but we feel, additionally, there should be stringent penalties applicable to any persons who should knowingly falsify a certificate, issue a falsified certificate, or make use of a falsified certificate.

As has been noted, we sincerely feel that a prohibition to 10 weeks of age should be considered to adequately promote safe transit. We feel that the regulations to be promulgated pursuant to this bill should be of much greater specificity than those currently issued under title 9 as "Transportation Standards," particularly as to "primary enclosures used to transport pets."

Cosmopolitan Canine Carriers has been seriously considering formation of a subsidiary to establish pet ports at the major airport terminals to provide emergency or interim care, feeding, and watering, but obviously lacks any police powers or even background enforcement standards to fully effectuate such a program.

Again, we thank you for this opportunity to participate in these hearings and hope that our comments may be helpful to the committee.

Mr. BERGLAND. We want to thank you. Your comments have been helpful, indeed.

Our next witness will be Mr. James Teter, vice president of REA Air Express, New York City.

STATEMENT OF JAMES TETER, VICE PRESIDENT, AIR AND INTERNATIONAL SALES, REA AIR EXPRESS, INC., NEW YORK, N.Y., ACCOMPANIED BY W. W. ROSENBERG, DIRECTOR OF SPECIAL PROJECTS, REA EXPRESS, INC.

Mr. TETER. I would like to introduce my associate, Warren Rosenberg, director of special projects, REA Air Express, Inc.

Mr. BERGLAND. We welcome you to these proceedings.

Mr. TETER. Mr. Chairman and members of the subcommittee, I appreciate this opportunity to submit this statement on the subject of live animal transportation.

My name is James Teter. I am vice president, air and international sales, REA Express, Inc., New York, N.Y. I have held this position since August 6, 1973.

Prior to that time, I was director of air sales for REA for approximately 3 years. I joined REA on July 1, 1969, as regional marketing manager at Chicago and was later promoted to regional sales manager at Chicago.

My previous experience was with two major motor carriers.

REA Express generally supports the proposed amendments to the Animal Welfare Act of 1970. REA has long recognized that its moral responsibilities to live animals go far beyond the economic or legal responsibilities.

Additional regulations will help to protect live animals and will also inform carriers as to what is expected of them in connection with the handling of live animal shipments. At present there is a great deal of uncertainty in this area. The proposed legislation will create an opportunity for correction of this situation.

REA participates in the National Council for Animal Transportation. This council operates under the guidance of the American Humane Association which is headquartered in Denver, Colo.

We also participate in the Pet Industry Joint Advisory Council which represents broad interests in the pet industry from breeders to manufacturers of pet and animal supplies. These groups are concerned with the handling, packaging, and transportation of live animals.

REA has cooperated fully with agencies, legislative committees, humane associations, and volunteer groups concerned with the transportation of live animals.

In October 1973, REA submitted testimony on this subject before the Subcommittee on Special Studies of the House Committee on Government Operations. At that time, REA suggested that uniform specifications be designed for live animal containers and that carriers be required to reject live animal shipments which do not comply with such container specifications.

REA also testified concerning its continuing program to inform its employees of proper procedures for the handling of live animal traffic. REA has distributed large posters and other educational material to its service centers to remind its employees of their special moral obligations in connection with the transportation of live animals.

REA does not know which agency will have the ultimate responsibility of promulgating the regulations concerning the transport of animals, however, REA will be pleased to cooperate with that agency, in formulating the regulations.

REA's extensive experience in live animal transportation may prove helpful in designing standards which should apply to live animal transport.

Although REA generally supports the proposed legislation, we do suggest amendments to the bill which would make transport industry compliance easier and at the same time make the legislation more effective in accomplishing its purpose of insuring humane treatment of animals being transported.

Section 6 of the bill would amend section 6 of the act to provide that intermediate handlers and common carriers shall register with the Secretary of Agriculture. The transport industry is already regulated by a number of agencies.

Registration with or licensing by yet another agency would be cumbersome and would result in added expense to carriers. We suggest that the Agriculture Department recognize operating authorizations from agencies such as the CAB and the ICC as being sufficient for their purposes rather than to require additional registration with the Department of Agriculture.

Section 8 of the bill would amend section 10 of the act to provide that intermediate handlers and common carriers keep records on such forms as prescribed by the Secretary of Agriculture. We suggest that the Secretary recognize records kept in the normal course of the transportation business, particularly those records required by other Federal administrative agencies.

The keeping of duplicate records would thereby be avoided.

Section 10 of the bill would amend section 13 of the act to provide in new paragraph (c) that no dogs or cats less than 8 weeks of age may be tendered for transportation.

New paragraph (b) provides that veterinary certificates will be required prior to the shipment of any animal. REA suggests that the format of the veterinary certificate be a federally approved form and that only federally or State licensed veterinarians be permitted to issue veterinary certificates for the interstate transportation of animals.

In addition, the certificate should require that the age of the animal be shown thereon or the act should be amended to prohibit the issuance of a certificate for any animal under the age required for transportation.

REA respectfully suggests that consideration be given to regulating veterinarians under the Animal Welfare Act and that the act also be expanded to include regulation of all persons dealing in the interstate commerce of live animals.

Section 11 of the bill would amend section 15 of the act to allow the Secretary of Transportation to review standards governing the air transportation of animals. We suggest that the Secretary of Transportation also be given authority to review standards governing the transportation of animals via other modes of transportation as well.

The proposed legislation would give the Secretary of Agriculture broad powers to regulate the transportation of animals. The new

regulations will probably result in a sharp increase in the operational costs associated with the movement of live animal traffic.

Rates and charges presently applicable on live animal shipments will have to be increased to offset these additional costs.

If further information on this subject is required, REA will be pleased to cooperate. Thank you.

Mr. BERGLAND. Thank you very much for your very constructive comments.

Our next witness is Mr. Bruce Gebhardt, director of cargo marketing, United Air Lines, Chicago, Ill.

STATEMENT OF JAMES B. GEBHARDT, DIRECTOR OF CARGO MARKETING, UNITED AIR LINES, CHICAGO, ILL.

Mr. GEBHARDT. Thank you, Mr. Chairman and members of the subcommittee. United Air Lines appreciates the opportunity to appear and provide information with respect to handling of animal shipments.

As certificated air carrier, United is subject to regulation by the Civil Aeronautics Board. We would hope that any changes in the way in which animals are handled would be incorporated into the airline tariff structure so that as a carrier we would be bound only by CAB regulation and not find ourselves in the position of possible conflict.

In this regard, United, other carriers, and other interested parties and agencies are participating in an active CAB proceeding covering transportation of live animals.

My responsibilities at United include the development of policy and operational procedures for the handling of live animal shipments. We felt that it might be helpful to the subcommittee if United's policies and procedures were available.

United carried in the neighborhood of 50,000 dogs in 1972, and of these 50,000 an estimated 30 died while in our care. Based on discussions with a recognized dog breeding expert employed by United, it is a safe assumption that 10 of these dogs probably would have died regardless of what care and handling was exercised.

Some dogs are just unsuited for traveling and they become very excited, agitated, and upset when traveling. As a result, they perish from heart attacks or other nervous causes which would have occurred regardless of the circumstances. The death of the other 20 dogs probably could have been avoided.

The best advice we can offer is that commonsense be applied when handling live animals and to treat dogs like human beings. If these two bits of advice are followed, most of the problems which typically come up can be avoided.

The biggest enemy of dogs in flight is heat. When dogs overheat they suffocate and die. Typically, overheating occurs because the baggage compartment of the aircraft gets too hot as a result of delays on the ground.

If the dog is excited and struggling against confinement, the combination of a hot compartment and a hot dog—and I mean no pun—can be fatal. This is why we recommend that when people shift their dogs during the hot summer months, they choose early morning or late evening flights.

It is true that our baggage compartments, or at least one compartment on each aircraft, which is designated for the carriage of live animals are heated and pressurized. However, they are not air-conditioned.

The temperature in the baggage compartment itself is a function of two things: one, the temperature of the outside air, and two, the functioning of the heating system. If, while the aircraft is on the ground and the baggage compartment gets hot, it will not be cooled; on the other hand, when the aircraft is in flight the temperature of the outside air is low enough to activate the heating system and the compartment is kept at a comfortable temperature for the carriage of live animals.

Freighter fleet floor level compartments are air-conditioned and, of course, are pressurized.

Temperature testing on the various aircraft has been done and it has been determined that in the 737 the temperature range in the belly pit designated for the carriage of live animals is between 30° and 70° Fahrenheit, with the norm between 35° and 50°.

This would also typify temperature ranges in other Boeing equipment. The one exception to this is the 747 where in the class C compartment there is ventilation and replenishment of oxygen.

This compartment is also heated and temperature controlled, that is air-conditioned, while it is in flight. Consequently, it is probably the most comfortable compartment for the transportation of dogs that we have. Note, however, that while the aircraft is on the ground this baggage compartment is not air-conditioned. Summary information covering live animal pit conditions is attached.

[Attachment 1 follows:]

TRANSPORTATION OF ANIMALS—UNRESTRICTED PITS

Equipment type	Pits	Location of pits	Temperature (minimum and maximum)	Temperature (normal range)	General comments
B-737	1-2-3	Forward belly pits	40-70	40-50	Cabin air circulates around pits for heating.
B-727	4-5-6	Aft belly pits	45-90	50-65	Do.
B-727-222	4-5-6	do	45-80	50-65	Heating by cabin air plus electric blankets.
DC-8-50	12	Forward bulk belly pit	40-90	50-60	Radio rack exhaust air heats the pit.
DC-8-61	12	do	40-90	50-65	Warmer valve is thermostat controlled.
DC-8-62	12	do	40-90	50-65	Do.
DC-10	15	Aft bulk pit	40-90	50-70	Thermostat controlled.
B-747	19 through 22	do	50-90	65-87	Do.
B-747	11 through 18	Aft containers pit	50-90	65-87	Do.
DC-8 Freighter	1 through 14	Main cabin	50-70	58-62	Do.
DC-8 Freighter	15 through 18	Forward bulkbelly pits	40-90	50-60	Radio rack exhaust air heats the pit.
727 Freighter	1 through 8	Main cabin	50-70	68-72	Thermostat controlled.
727 Freighter	4-5-6	Aft belly pits	45-90	50-65	Cabin air circulated around pits for heating.

TRANSPORTATION OF ANIMALS, MAY 1 TO SEPT. 30, RESTRICTED PITS (SUMMER USE ONLY)

Equipment type	Pits	Location of pits	Temperature (minimum and maximum)	Temperature (normal range)	General comments
B-737	4-5-6	Aft belly pits	1 40-60	1 40-50	SFOEG has indicated these pits are OK in summer.
B-727	1-2-3	Forward belly pits	30-75	1 40-50	Do.
B-727-222	1-2-3	do	34-72	1 40-50	Do.
DC-8-50	13	Aft bulk belly pit	(2)	(2)	Do.
DC-8-61	13	do	(2)	(2)	Do.
DC-8-62	13	do	(2)	(2)	Do.
DC-10	1 through 14	Forward and aft containers pits.	32-90	1 40-70	Do.
B-747					No special accommodations for summer.
DC-8 Freighter	19 through 23	Aft bulk belly pits	(2)	(2)	SFOEG has indicated these pits are OK in summer.
727 Freighter	1-2-3	Forward belly pits	30-75	1 40-50	Do.

¹ Estimated based on available chart or printed information.

² SFOEG unable to verify temperature details as of Mar. 14, 1973. They are putting all available information together. This will take a few days.

Mr. GEBHARDT. Similar tests of the DC-10 determined that the minimum temperature in the baggage compartment was 40 degrees with a maximum of 80 degrees—the norm being from 50 to 70 degrees. These, of course, are inside temperatures in flight.

The testing was done in Yuma, Ariz., when the outside ground temperature was 80 degrees. The cargo pit heated to 91 to 95 degrees. Thirty minutes later, at 29,000 feet with a minus 45 degree outside temperature, the baggage compartment temperatures ranged from 89 to 92 degrees, and 15 minutes later they were down to 76 to 84 degrees.

Dogs are critically hot when their body temperature reaches 106 degrees, and 109 degrees is fatal. Thus, flight delays can cause problems. Again we want to emphasize the importance of putting dogs on late night or early morning flights during the hot summer months so that these problems are minimized.

Suffocation is a particular problem with short-snout dogs—that is, boxers, bulldogs, and others of that type. Dogs also often reflect the personality of their owners. If the dog's owner is nervous and high strung, it is quite possible that the dog will also be nervous and high strung, which can contribute to problems in flight.

If the dog gets nervous and upset and attempts to escape from the kennel and in doing so gets agitated and overheats, this may cause its death. It is also possible that this excitement can cause vomiting which, if a food particle lodges in the dog's lung, may result in its death from pneumonia within 30 minutes.

We don't forget about the birds and the bees when dealing with dogs either. If one puts more than one dog in the baggage compartment and one of the dogs happens to be a female in heat, the male can very well perish from overheating and suffocation as a result of attempting to

chew through, claw through, or otherwise escape from its kennel in order to spend a little time with its new-found girlfriend.

Dogs, like people, vary in terms of their ability to travel. Some dogs are poor travelers and others are good travelers, which leads to the recommendation that if the customer expects his dog to get excited or have a difficult time, a tranquilizer may be in order.

When carrying dogs, or for that matter any live animal, we make sure to see that the baggage pit specifically designed for carrying live animals is the one that is used. Some pits are specifically designed for live animals and, as a matter of fact, in the DC-8 the temperature valves are specifically designated "doggie warmer" valves. Using the wrong pit can cause problems, such as freezing to death.

When the dog is loaded into the pit, the loading is done carefully, since the way in which the kennel is loaded can be the key to the dog's survival. Air space must be left so that there can be some circulation and ventilation of the kennel, and care should be taken to see that there is no Dry Ice in the pit with the dog, since the Dry Ice will create carbon dioxide and the dog will suffocate. When a dog is being carried, if it is at all possible, no more than one-third of the pit is loaded.

It is important to make sure that the dog is in a proper size kennel. If a big dog is put into a small kennel, this causes problems in terms of the dog being uncomfortable and overheating—and overheating can lead to suffocation.

Our regulations read that we do not accept a dog weighing more than 80 pounds in our kennels, but we may not have been as rigorous as we could have been in enforcing these regulations, and we have reviewed them with our personnel.

We also try to be certain that the dog is put into the kennel by its owner or handler and that we maintain our standards, even though the owner or handler may insist that the particular kennel is perfectly adequate for the dog in question. Our regulations are written to protect the pet and are based on commonsense and experience.

The case of a prize show dog that died while on a United flight was a prime example of what can happen when we accede to the wishes of an owner or handler. This dog, which weighed 120 pounds, was put into a kennel designed for an 80-pound dog.

A professional dog handler brought the dog to United and we accepted the dog based on the handler's expertise. We were at fault technically for accepting the dog, since its kennel was too small, but in the best judgment of our experts, this dog's handler should not have attempted to ship him in this fashion.

While we may have thought we were doing the handler service by accepting the dog, we certainly did the dog no service, nor did we do anything to improve our reputation with either the dog's owner or the dog-owning public.

One final note for those of you who are cat lovers; we practically never lose a cat. They apparently are able to adapt to their environment very well and typically will retreat to a corner of the kennel and remain very calm and very quiet, which is the key to survival so far as animals are concerned.

To summarize, we advise our personnel to use commonsense and treat dogs like human beings.

I hope this information is helpful to you, and hope that it provides some further insights. Should you be interested in more technical

detail, Attachment II—United Air Lines Co. Regulations Series 45-10—provides a complete summary of the information available at every United station.

I would also like to have an opportunity to enter into the record a copy of the brochure that we provide to our customers who are shipping animals.

Mr. BERGLAND. Without objection, the attachments you referred to will appear in the committee's files for our use as we ponder this matter.

[“United's Guide to Pet Travel” and United Air Lines Co. Regulations Series 45-10 are retained in the subcommittee files.]

Mr. BERGLAND. Mr. Gebhardt, can you stay for awhile to respond to some questions?

Mr. GEBHARDT. Yes.

Our final witness is Mr. Martin Roy, Washington representative, American Rabbit Breeders Association, Warrenton, Va.

**STATEMENT OF MARTIN ROY, WASHINGTON REPRESENTATIVE,
AMERICAN RABBIT BREEDERS ASSOCIATION, WARRENTON,
VA.**

Mr. Roy. Mr. Chairman and members of the committee, I appreciate the opportunity to appear here on behalf of the American Rabbit Breeders Association.

It is an organization of 19,000 members spread over the United States, devoted to the promotion of rabbits for food, fancy, and research. I am licensed by the American Rabbit Breeders Association to judge rabbits throughout the United States and Canada.

In addition, I am licensed by the Department of Agriculture as a class B dealer to deal in laboratory animals. My license number is 52-PV.

We deal in rabbits exclusively and these rabbits are exclusively for research. Our markets are in the Charlottesville, Washington, and Baltimore areas. We do no butchering. We raise no pets and have only a small amount of breeding stock.

The bill, as pending, could result in the imposition of rules which could create several economic and personal hardships on some of our memberships, the ones that deal in rabbits that eventually go to research.

The economic hardships, the additional costs, must be absorbed by someone other than the dealer. The definition of dealer includes anybody that is involved in raising or trafficking in laboratory animals. In other words, the teenage boy who has 10 does and sells to someone who sells to laboratories, that teenage boy is licensed, so he is considered a dealer.

So the provisions of the bill could impact on many from the point of view of having to get certificates, having to pay for them, and, of course, the personal inconvenience and hardship involved in getting certificates at unusual hours because rabbits generally move at night during the summer and on weekends.

Most of the breeders are generally tied up during the week. Rabbits usually move during hours when veterinarians are off duty.

I would like to mention that rabbits for research generally are raised by many small breeders. There are few large rabbitries in the United

States. The minute you put rabbits in large colonies, you have a proliferation of disease and other problems. They find it most successful if the rabbits come from small breeders and a buncher assembles them and selects what the labs want as to sex and size and age, and so forth.

We have producers who raise rabbits for us, two young mothers who need the money for their family, two teenage boys, a Mennonite family with five children, retired personnel, and other people who must have a small amount of additional income.

The requirement for getting a veterinarian's special certificate will work to the disadvantage of Midwest producers and dealers. They will have to get the veterinarian certificates in order to ship rabbits into the relatively lucrative east coast research market.

We here in the East, if we do not deliver to a common carrier, will not have to get a certificate. Accordingly, the Midwest dealer is going to be at a disadvantage because it is going to cost him more to deliver the rabbit than it will us.

This is on top of a 24-percent increase in the wholesale cost of rabbits which we just went through during the year ending 31 March.

The proliferation of paperwork is also a consideration that besides the common carrier forms, the Department of Agriculture forms, which must accompany each shipment and, hopefully, one copy be returned—we must now have a veterinarian's certificate.

If you have multiple shipments, it piles up fairly high, and I don't think that we are really prepared to handle more paperwork. I believe the paperwork that we have that we are using currently is adequate.

Another consideration is that veterinarians generally are not well informed on rabbits. I am afraid that what will happen is that a veterinarian will take the word of an experienced breeder as to the health of animals simply because he has no better basis on which to make the judgment and sign a certificate.

Accordingly, we would be paying for an actual lack of knowledge. We wouldn't be getting our money's worth in asking for a veterinary certificate in the case of rabbits.

As long as everything goes all right, we will get the certificate. However, the first time the vet comes under fire, he will stop issuing the certificate, and we will have to look for another veterinary, and we will probably have to pay more money.

A comment on the 8-week rule because research occasionally requires rabbits at less than 8 weeks. We have had excellent experience delivering rabbits under 8 weeks to research facilities.

Granted that the animals are in transit probably 2 hours from the hutch to their new pen, we have had zero mortality. This is spread over the following 2 weeks after the animals were delivered, still no losses.

I don't think that the 8-week rule will do anything but create a hardship on research facilities, reduce the amount of business that we can do, and I really question whether it is not humane to send rabbits in under 8 weeks inasmuch as we had the same rule in 1941.

However, note the difference in nutrition, not only in the quality but also in the palatability of this feed since 1941—improved housing, improved care, better highway, more rapid transit. Even today some breeders ween at 6 weeks and place them in a pen where they grow out and the rabbits are good quality.

We buy some that are just as good. By the time they weigh 4, 4½ or 5 pounds, they are just as pretty. Some of the feeding companies recommend feeding at 5 weeks and feeding a feed which is high in protein and has high palatability.

These are all the comments that I have today. Thank you for the opportunity.

Mr. BERGLAND. Thank you very much, Mr. Roy, for bringing your special expertise to this committee. We appreciate your testimony and ask that all witnesses return to the table so we may proceed with the questioning. Mr. Foley?

Mr. FOLEY. We will start with Mr. Roy, who just testified. Directing your attention to the 8-week problem, Mr. Roy, do you read the bill as presently requiring the Secretary to set an 8-week minimum on rabbits?

Mr. ROY. No, sir, the possibility exists that he could do that.

Mr. FOLEY. Dogs, cats, and additional classifications of animals as determined by the Secretary?

Mr. ROY. Yes, sir, I don't feel that the Secretary should even have authority to do it because I don't feel it is appropriate or necessary.

Mr. BERGLAND. What would you suggest? That we have no age limits on other classifications?

Mr. ROY. Yes, because I feel researchers will order what they feel will do the job. They will use their judgment. They won't order 4-week old rabbits if they know they are not going to hold up or do the job.

Mr. FOLEY. There has been testimony to the contrary, indicating dogs are sometimes shipped at too early an age. Are you suggesting that a shipper be allowed to make his own judgment?

Mr. ROY. Yes, based on the order.

Mr. BERGLAND. If the gentleman will yield, there were some among you that testified to that question and suggested there be some modification provided where laboratory animals are shipped at an early age and used for diagnostic studies under laboratory conditions. I can't recall who it was. Dr. Ewald?

Dr. EWALD. We feel that there should be no restriction for any particular kind of animal or age of animal. For instance, the common restriction we see for poisonous snakes used by airlines, if a proper method of packaging can be established that makes it safe to ship poisonous snake, not only for the animal, but human beings handling it, we think the same consideration should be applied to younger animals.

If the proper precautions are taken for the animal to be shipped, we should be able to ship them. It is necessary for us to have the younger animals at certain times.

Mr. FOLEY. Who should determine when it is proper and safe?

Dr. EWALD. The Department of Agriculture. Presently, it is determined by the supplier and the purchaser.

Mr. FOLEY. You are not objecting to this being the subject of regulation?

Dr. EWALD. The 8-week law or the 8-week section?

Mr. FOLEY. The prohibition runs against dogs and cats.

Dr. EWALD. Yes.

Mr. FOLEY. The Secretary has flexibility.

Dr. EWALD. The shipping of dogs and cats under 8 weeks we would object to.

Mr. FOLEY. Do I understand correctly that you feel there should be exceptions to that rule under appropriate circumstances as determined by the Secretary?

Dr. EWALD. Right.

Mr. FOLEY. I am going to skip around a little bit. I am sorry, I haven't heard all the witnesses' testimony.

Mr. Gebhardt, you suggested that the regulations be limited to tariff regulations of the CAB. The FAA has testified at these hearings that they are promulgating regulations with respect to the securing of crates or containers by carriers in order to protect animals from movement of other cargo.

Do you feel that the FAA's involvement is inappropriate?

Mr. GEBHARDT. We would prefer to have one agency to deal with. The reason being if you get conflicting regulations or, perhaps even more seriously, if you have two agencies with responsibility and something happens—suddenly, you have no one who is willing to accept responsibility.

The current CAB proceedings should address this particular issue.

We also believe that because of the way in which the CAB proceedings are being held, that is with hearings and with testimony from interested parties, that we will get an overall better regulation.

And to speak to that specific point, whenever possible, it is our practice to load a kennel immediately behind the door, the cargo pit door in an aircraft. The reason for this is if there is a flight delay, we can crack that door and allow some ventilation, and when the airplane is unloaded, the kennel will come off first so the dog doesn't have to stay in the pit.

If the restraining procedures suggested by the FAA are applied to kennels, it will be difficult to use what we call tie-downs in that particular area because it blocks opening the door, so there is no question but what you load a kennel so that other cargo doesn't shift and crush it and so injure the dog.

I think requiring the kennel to be loaded in a position to where a restraining net is used or a tie-down will work to the disservice of the animal, not its protection.

Mr. FOLEY. There seems to be some question as to whether the CAB has jurisdiction to implement the regulation through the tariff procedure. The FAA testified that it feels it already has the legal jurisdiction to require regulations affecting the safety of live animals.

I can understand your concern about conflicting regulations among different Government regulatory agencies, especially since there has been some suggestion that some carriers may object to the CAB's implementing regulations if they elect to do so.

Mr. GEBHARDT. You are quite right. The FAA has the power. I believe the CAB also has the ability to implement tariff changes after the investigation and we may object to some of those changes.

I wouldn't say that we won't, but I think we would vastly prefer that it be subject to one regulatory agency rather than a number of them.

Mr. FOLEY. Thank you.

Mr. Teter, in your testimony you suggested that the certification by existing agencies such as the ICC, CAB, and so on, should be considered sufficient. How would the Secretary of Agriculture, if he

were given authority to establish regulations, enforce those regulations? Under your suggestion, would he have to do it through the other agencies?

Mr. TETER. Yes, sir. REA takes the position we don't know which Federal agency should have the authority. We will cooperate with whoever takes the ball to provide humane and safe treatment for creatures.

We believe there is a definite need for one of the agencies to be the leader. We are willing to cooperate in any way possible.

Mr. FOLEY. In your statement at the Government Operations hearings last year you mentioned that. As a result of those hearings, apparently an informal interagency committee has been established.

Do you see any utility in that sort of cooperation between the various Government agencies?

Mr. TETER. Yes, there should be cooperation. In our testimony we mention the ICC. There is overlap. We think this bill should be taken further to provide regulation on surface movement of live animals also covering air.

Mr. FOLEY. This is probably where the bill is deficient. Most animals are transported by air. Other witnesses have suggested that any tightening of the regulation of air movement might result in more surface transportation.

You have mentioned in your testimony that the result of any increased standards would probably be increased costs on the shippers of animals.

Do you feel that those costs would be substantial?

Mr. TETER. I think they would be. It depends upon the regulation. Special handling would be taking the ship. Out of the norm and giving it special attention, special pickup provisions, special boarding provisions, special recovery provisions—it would be a specialized movement of a live creature, and we think there should be additional cost.

We should be compensated for that, but we are willing to do it.

Mr. FOLEY. Thank you, Mr. Chairman.

Mr. BERGLAND. Thank you very much, Mr. Foley. We appreciate your coming to the proceedings this morning and bringing to the committee the value of your experience and expertise in this complicated and sometimes emotional area.

Mr. FOLEY. I would like to say to the witnesses, that, unfortunately, the schedule of the House doesn't always work out very well for us in these hearings. We are about to be summoned to the floor.

We have about 3 or 4 minutes left, and I would like to have an opportunity to ask more questions. As the chairman has said, these hearings have been very, very productive in our judgment; and I want to congratulate all the witnesses today. I read the statements even though I wasn't here to hear them orally.

These hearings represent an impressive contribution by all the witnesses. They are informative and squarely address the problems before the committee. We are not insensitive to some of the problems raised by the testimony.

Not only are we concerned about the improvement of animal transport in the United States, but we also recognize the complications of interagency activity that may cause an overlapping of jurisdiction.

We are also aware of the difficulties of perhaps over regulating to the point of creating some severe economic difficulties.

I would suppose Mr. Gebhardt, that as we get into another generation of aircraft, it will be more likely that cargo holds will be designed to have temperature controls.

Apparently this is already occurring. Perhaps this is an area where, as regulations become more specific, the aircraft manufacturers may take this into consideration in order to make the shipment easier.

You suggested one thing to which I would like to return for just a moment, Mr. Gebhardt. You suggested that those who are shipping animals might try to ship them during the morning or evening flights during warm weather.

If there were facilities for the temporary care and handling of animals, couldn't they be maintained by the airlines themselves?

MR. GEBHARDT. Yes, to a major degree, we attempt to do that now. In our case, at least, we ask that anyone who is shipping a pet make advance arrangements with us, call us the day before. We will try to set up a reservation, if you will, for the pet on either a morning flight or late afternoon flight.

This is to the discretion of the customer that you ship your dog on such-and-such a flight, rather than a noon departure.

The primary problem is that at major airports where you have delays, the heat reflected off a runway surface will go right through the aluminum skin on an airplane. It gets very hot in the baggage compartment.

MR. FOLEY. It can get very hot in the passenger compartment.

MR. GEBHARDT. Yes. The evolution of the compartments on the aircraft has already taken place. The "doggy warmers" I talked about were installed after the aircraft was built. The 747 does, in fact, have an air-conditioning department which is partially as a result of the fact that we have our galleys downstairs and there are people down there too.

The one limiting factor is that you cannot have too great a degree of air circulation. If you have a fire and there is air circulating—as it is, you can at least partially confine the fire because there is no circulation of air.

We would not want to advocate opening the pits up and getting a free flow of air because of the safety factor.

MR. FOLEY. Well, don't you have fire retardant and prevention devices in all parts of the aircraft?

MR. GEBHARDT. Yes, we want to minimize the fire spreading.

MR. FOLEY. Thank you. You have made a substantial contribution to our hearings, and I want to thank you all.

MR. BERGLAND. Thank you, Mr. Chairman.

The subcommittee will stand adjourned.

[Whereupon, at 12 noon, the subcommittee recessed, to reconvene at 10 a.m., Wednesday, August 14, 1974.]

[The following letter was submitted to the subcommittee:]

AMERICAN FARM BUREAU FEDERATION,
August 13, 1974.

HON. THOMAS S. FOLEY,
*Chairman, Subcommittee on Livestock and Grains, Committee on Agriculture,
U.S. House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: The American Farm Bureau Federation wishes to make the following comments with respect to H.R. 15843, a bill dealing with the humane treatment of animals in transit.

Farm Bureau has a membership of 2,293,000 families in 49 states and Puerto Rico. An estimated 70-75 percent of our farm and ranch members produce or feed livestock.

We always have supported and promoted the humane treatment of livestock while they are on the farm or ranch and as they move through the marketing channel. Considerable progress has been made under existing laws and regulations.

The major concern we have with H.R. 15843 relates to Section 15, page 8, lines 12-25. This section would give the Secretary of Agriculture virtually unlimited powers to establish and enforce regulations for all movements of livestock, including breeding and slaughter animals as well as pets and laboratory animals.

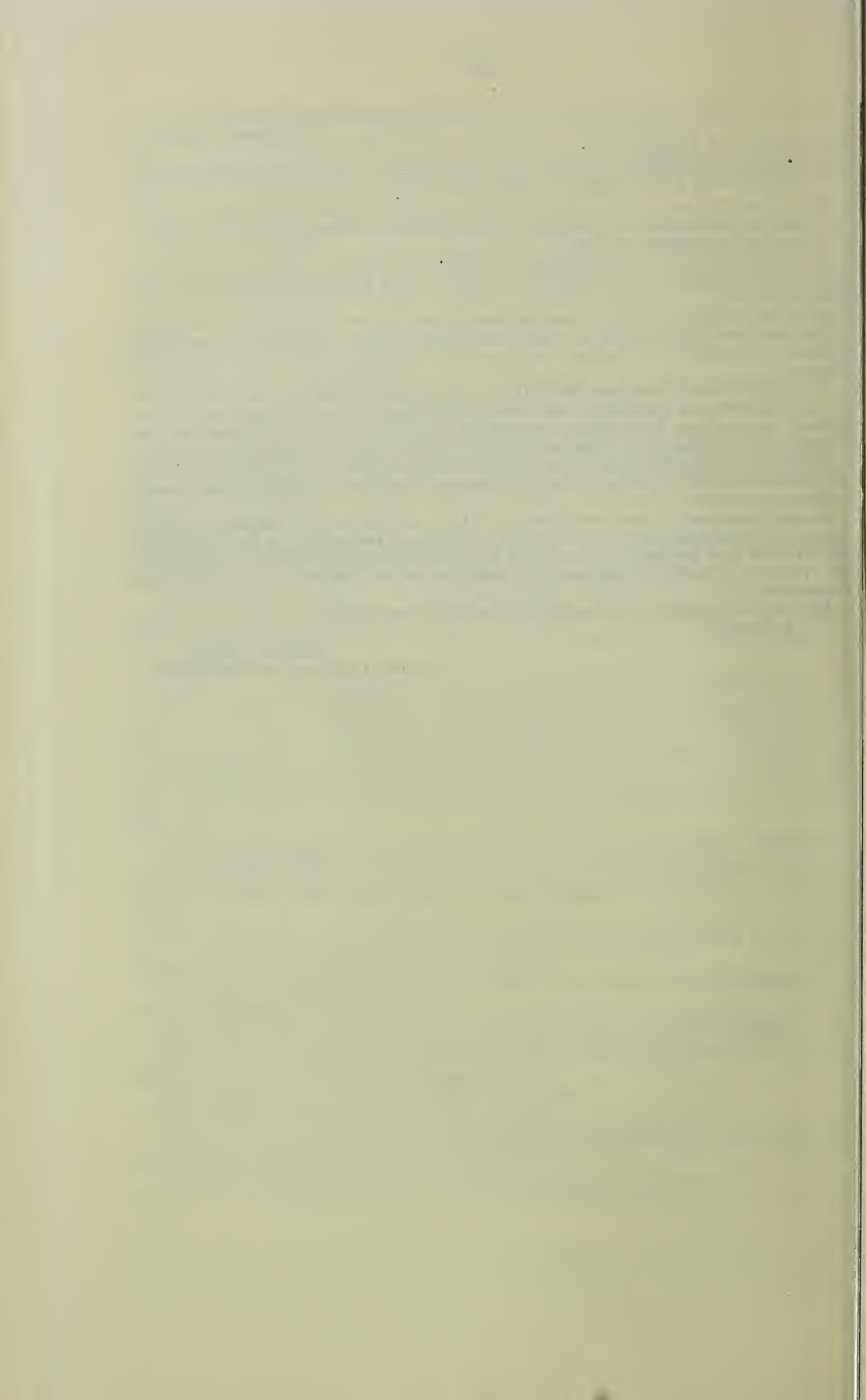
Excessively stringent regulations could be detrimental to the rapid movement of livestock, which is needed to assure consumers adequate supplies of fresh meat and meat products.

Recent increases in transportation costs have already greatly influenced traditional movement patterns for livestock. Additional restraints on the movement of livestock and resulting increases in costs could seriously affect the ability of the livestock industry to operate at a profit and to produce adequate supplies for consumers.

We shall appreciate your consideration of these comments.

Sincerely,

JOHN C. DATT,
Director, Congressional Relations.



ANIMAL WELFARE ACT AMENDMENTS OF 1974

WEDNESDAY, AUGUST 14, 1974

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON LIVESTOCK AND GRAINS
OF THE COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met at 10:15 a.m., pursuant to recess, in room 1301, Longworth House Office Building, Hon. Thomas S. Foley (chairman of the subcommittee) presiding.

Present: Representatives Foley, Sisk, Denholm, Mayne, Zwach, Price, Sebelius, and Johnson.

Steve Pringle, staff assistant; L. T. Easley, press assistant; and Betty Prezioso, staff assistant.

Mr. FOLEY. The Subcommittee on Livestock and Grains will come to order.

The subcommittee meets for further consideration of the bill H.R. 15843 and other bills pending before the committee relating to the Animal Welfare Act amendments.

We are very happy to welcome as our first witness, our distinguished colleague, Mr. Robert C. McEwen, of New York.

STATEMENT OF HON. ROBERT C. McEWEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. McEWEN. I have with me Mr. Thomas Long, my legislative assistant, who has worked closely with me on this legislation. I want to thank you for this opportunity to appear before this committee to testify in support of H.R. 10670, the bill I have introduced which would authorize the Secretary of Agriculture to promulgate standards for the humane transportation of horses.

This committee has taken a lead in providing creative legislation in the area of animal welfare by drafting a number of important bills including the Animal Welfare Acts of 1966 and 1970.

I would like to commend this committee for holding these hearings concerning the deficient care of animals which unfortunately are the rule and not the exception in America today. I am also thankful to the committee for including my bill in these hearings and allowing a number of witnesses to testify on this matter today.

Among the people who will testify before this committee today is a constituent of mine, Dr. Robert A. Lopez. Dr. Lopez is a doctor of veterinary medicine who has first hand the handling of the problem H.R. 10670 addresses. Dr. Lopez and a number of other witnesses who are knowledgeable on the problems of transporting horses will provide the committee with a detailed picture of the problem.

I would like to briefly discuss the problem and explain how this bill could be an important step in the right direction. The problem that has been brought to my attention is that horses purchased for slaughter are packed like sardines in a truck and shipped nonstop from southern America to Canada.

There are a number of processing plants in Canada who process the meat. One of the main routes for these shipments runs through eastern New York straight through Interstate 187, sometimes referred to as the Adirondack Northway. My constituency includes a large part of Interstate Route 187.

A number of my constituents who live in that area have contacted me expressing their outrage about the miserable condition of these horses. By the time these horses reach upstate New York, many of them are dead because of the overcrowded conditions and lack of water. Many constituents contacted me to seek a solution to this problem.

I was pleased to learn that you, Mr. Chairman, were also aware of the inadequate care used in the transportation of horses. You have responded by including a section in your bill which would provide for section 15 of H.R. 15843, the Animal Welfare Act amendments for 1975.

This provision is broader in scope than H.R. 10670 since it also includes other types of livestock. Although other types of livestock are not transported through northern New York in large number and I have received no complaints about the way in which they are transported, it is my understanding that there is a need for attention to be given to this matter.

The principal objective of my bill is to provide humane treatment and care for horses by regulating their transportation, housing, care, and handling. The mechanism for implementing this goal is already in place by virtue of the Animal Welfare Act. The regulatory program proposed in H.R. 16070 is patterned after the Animal Welfare Act.

This bill would simply add jurisdiction over horses to the existing responsibility that the USDA has for the welfare of certain animals. It will provide adequate care in the transportation of these animals. In my judgment when standards are promulgated which cover the minimum requirements with respect to handling, feed, watering, ventilation, for horses being transported, a great measure of progress will have been made.

I urge the committee to continue the tradition of humane animal legislation they have begun by including horses in that category of animals which are entitled to protection from cruel treatment. I urge you to give favorable consideration to H.R. 16070 and report this bill favorably to the House.

I would again thank you, Mr. Chairman, and the members of this committee, for this opportunity to express my views concerning this problem and congratulate you on the efforts you have made in this direction.

Finally, let me reiterate, Mr. Chairman, what I said earlier in my remarks, that among the witnesses you will hear today, and I believe your next witness, Dr. Robert A. Lopez, can give to this committee a wealth of information based on his own first-hand observation when

he has been called as a doctor of veterinary medicine to examine the conditions that have been found by law enforcement officials when these trucks have been stopped.

Thank you, Mr. Chairman.

Mr. FOLEY. Thank you, Mr. McEwen. We want to applaud your interest in this very serious problem.

Later we shall receive testimony from witnesses who feel there is no need for legislation covering horses, while others still maintain that the provisions of this particular bill are much too extensive. In defense of their positions, they claim that, because of their value, horses are already transported under safe conditions. For my own part, however, I think your point is well taken.

Mr. McEWEN. It is certainly a vivid contrast, Mr. Chairman. I have two horse-loving daughters. We used to go around to the horse shows. Knowing how we handled our horses and seeing how others handled them and then seeing the other end of the spectrum on the transportation of these animals for slaughter, is just appalling.

It is as different as day is from night. It is a whole different thing. It makes one wonder, except for transportation costs, possibly, why these animals are packed in. Why, as Dr. Lopez will be telling you in just a few minutes, they have dead animals—not through being involved in an accident, but simply from the conditions they are in. They died en route.

Mr. FOLEY. Mr. Zwach?

Mr. ZWACH. I want to join you in extending our welcome to Congressman McEwen for coming and giving his testimony. We will go through this testimony carefully. Hopefully, we will come up with a good piece of legislation.

Mr. McEWEN. I appreciate that, I would say to the gentleman from Minnesota.

Mr. FOLEY. Mr. McEwen, we appreciate your testimony.

Mr. FOLEY. The next witness will be Dr. Robert A. Lopez, president of the North Country SPCA, Westport, N.Y.

STATEMENT OF DR. ROBERT A. LOPEZ, PRESIDENT, NORTH COUNTRY SPCA, WESTPORT, N.Y.

Dr. LOPEZ. I have just a short statement. I would be happy to try to answer any questions you might have.

The love of a horse is as old as man himself, and is a part of our great inheritance.

From Biblical times, circa 1500 B.C., our ancestors, Abraham, Job, Solomon, then the Egyptians, later the Europeans, all depended greatly upon their horses for work, transport, defense, and companionship.

Today horses still occupy a prominent part in our society. Over 6 billions of dollars are wagered annually on horses and some \$500 millions of this returned to the States in taxes. Other millions are spent in horse shows, county fairs, western riding clothes, boots, and hats, et cetera, making horses truly big business affecting all our States.

During the last few years increasing numbers of horses have been shipped inhumanely in overcrowded motor vans taking them on their way to slaughter. This traffic in horses will continue to be heavy as long as beef is scarce and prices high. By conservative estimates 20–25,000 horses are being shipped monthly. I have personally seen grossly over-

crowded vans with 30 or more horses untied, milling about, some down and being trampled to death, others already dead on the slimy floors, and no evidence of food or water given in the past 24-40 hours.

Through the excellent cooperation of the New York State Police who have called on me as a medical witness in these cases, we have been able to cause the arrest of a few of these drivers. New York State Police records show a total of 10 arrests with inhumane treatment of horses in the northern New York area. But these practices can only be stopped by substantial penalties under specific Federal regulations mandating minimum shipping standards. At this time New York State troopers can only give citations for overloading, poor tires, et cetera, or obviously dead or dying horses. Local justices often levy insignificant fines. So with weak regulations and petty fines the abuses continue.

This then is the background of legally permissible cruelty to thousands of horses being transported by motor vans at a huge profit. At present there are no State or Federal regulations that specifically regulate safe and humane transport of horses on our roads. I ask you to seriously consider H.R. 16070 introduced by Congressman Robert McEwen. This bill will for the first time specifically include the horse under the protection of public law 89-544. The Secretary of Agriculture will set and enforce standards of humane handling and transportation of horses.

I am appearing on behalf of the North Country SPCA, Inc.; the New York State Veterinary Medical Society; and the Association of Animal Welfare Veterinarians of the American Veterinary Medical Association.

As a practicing country veterinarian for over 25 years, along with many other veterinarians, I am vitally concerned with the humane treatment of all animals—including horses.

As a citizen aroused to anger by the abuses in horse shipment that I have personally witnessed, I am demanding legislative action.

Mr. ZWACH. Does that finish your testimony?

Dr. LOPEZ. Yes, it does.

I have several pictures here which you might like to see. These are pictures we have taken and show horses that have been pulled off the vans dead and mutilated.

Mr. ZWACH. Would you like them back or would you like to submit them for our records?

Dr. LOPEZ. I would like them back, but I will see that you get copies.

Mr. ZWACH. Will you pass them up to Congressman Johnson? We will see they get back to you.

Thank you for your testimony. Could you wait and then maybe we will have some questions?

Dr. LOPEZ. Thank you.

Mr. ZWACH. The next witness is Mr. Guy Hodge, director of information and legislation, the Humane Society of the United States. You may proceed, Mr. Hodge.

STATEMENT OF GUY HODGE, DIRECTOR OF INFORMATION AND LEGISLATION, HUMANE SOCIETY OF THE UNITED STATES

Mr. HODGE. My name is Guy Hodge. I am director of information and legislation for the Humane Society of the United States, a national nonprofit animal welfare organization headquartered in Wash-

ington, D.C. I am appearing at the invitation of Mr. McEwen for the purpose of offering a statement in support of his bill, H.R. 16070, which would authorize the Secretary of Agriculture to promulgate regulations governing the humane treatment of horses shipped in commerce.

Since the earliest days of the industrial revolution the horse has been among the animals most closely associated with man. It was the plight of the working horse which resulted in the formal establishment of animal welfare organizations in the mid-19th century. At that time an estimated 25,000 streetcar horses died annually as a result of abuse, overwork, or inadequate care.

While the suffering of the 19th-century working horse instilled compassion and humane feeling in the citizenry, progress toward the improved treatment of these animals has been slow to come. In fact, the relationship between man and horse has changed dramatically during the past 50 years. However, general horse care has not significantly advanced.

Mr. Chairman, with your permission I would like to briefly trace the life of the stable or farm horse which Mr. McEwen's bill is intended to assist. Many of these animals were purchased cheaply, overworked by amateur horsemen, deprived of basic veterinary care, stabled in dilapidated sheds, and fed inadequate, often unwholesome, rations. The ultimate result of this treatment is an emaciated animal which is of value only to a pet food processor or the proverbial glue factory.

Perhaps the greatest cruelty occurs as the horse is moved from farm to auction to slaughterhouse. As a former field representative for the Humane Society of the United States, I have on several occasions attended horse auctions in Maryland, Virginia, and North Carolina, and I can personally attest to the pathetic condition of the infirmed, grossly undernourished creatures which are offered for sale at these weekly events.

The animals' misery and suffering does not stop at the auction; the horses must still be transported to the slaughterhouse, a feat which may entail a lengthy journey in an overloaded truck.

During the past winter my office was consulted with respect to an animal abuse case in which New York State Police arrested a North Carolina truckdriver who had wedged an incredible 77 horses into a single vehicle. In previous testimony before this subcommittee, Humane Society of the United States President John A. Hoyt offered additional examples of incidents involving the improper shipment of horses in commerce.

The Humane Society of the United States does not intend to imply that every horse dealer, auctioneer, or abattoir operator is unprincipled. Indeed the quality of some horses is in contrast to what I have described. However, we do want the subcommittee to understand that the cases to which we made reference are not isolated incidents. More than 10,000 horses are transported across the Candian-New York boundary each month and these animals represent only a portion of the total interstate traffic in horses. It has been reported that even with minimal surveillance the New York State Police have uncovered more than a dozen cases of horse abuse this year which were so severe as to require prosecution.

During the past several days of hearings a number of persons have stated that H.R. 16070 and related bills would place impractical

restrictions upon the shippers of horses and other livestock. We would submit, Mr. Chairman, that every animal has basic postural, nutritional, and environmental needs which must be met to maintain that animal in reasonable health and comfort.

Failure to meet these requirements results in unnecessary and unacceptable suffering which is contrary to the humane ethic of the American people and to the animal protective statutes of the several States.

The problem to which H.R. 16070, H.R. 15843, and related bills address themselves is not unique. For many years the Government has recognized the need for continuity among the laws of the several States. This principle of law enforcement is equally relevant to the subject of animal abuse. We desperately need a Federal policy on the humane treatment of animals, a uniform law which transcends State boundaries. In the Animal Welfare Act and the Humane Slaughter Act we have the basic embodiment of such legislation; however, such protection should not be confined to certain animals under certain conditions.

Respect and compassion for living creatures cannot and should not be selective. The Humane Society of the United States strongly supports the basic provisions of H.R. 16070 and H.R. 15843. We believe that the Department of Agriculture is competent to promulgate responsible, practical regulations governing the humane treatment of animals and, accordingly, we urge the swift consideration and passage of a comprehensive Federal law protecting animals transported in commerce. Every day without such legislation serves to perpetuate a senseless and tragic waste of animal life.

In conclusion, Mr. Chairman, I want to express on behalf of the Humane Society of the United States our gratitude to Mr. Foley and Mr. McEwen for their leadership in promoting legislation for the humane treatment of animals. Thank you.

Mr. ZWACH. Thank you, Mr. Hodge. If you could be available a little later, we would appreciate it.

Our next witness will be Mrs. William Blue, vice president of the American Horse Protection Association, Washington, D.C.

Welcome to the committee, Mrs. Blue.

STATEMENT OF MRS. WILLIAM L. BLUE, VICE PRESIDENT, AMERICAN HORSE PROTECTION ASSOCIATION

Mrs. BLUE. Thank you, Congressman.

Mr. Chairman, and members of this distinguished subcommittee, my name is Joan R. Blue. I am the vice president of the American Horse Protection Association which is the only national nonprofit organization dedicated to the welfare of horses, both wild and domestic. The American Horse Protection Association has no paid staff; all working members are volunteers.

Members of our association were instrumental in promoting the passage of two bills of great significance to the welfare of horses. The first, the Horse Protection Act of 1970, prohibited the brutal soring of the Tennessee Walking Horse, and outlawed cruelty to all domestic show horses. Members of the American Horse Protection Association also spearheaded the drive for passage of a second important piece of legislation—the Wild Free Roaming Horses and Burros Act of 1971—

which directs the Departments of the Interior and Agriculture to preserve and protect a part of our American heritage.

We greatly appreciate the committee's invitation to give our views concerning Congressman Robert McEwen's excellent bill, H.R. 16070, which would authorize the Secretary of Agriculture to regulate the transportation of horses in commerce, and for other purposes.

The American Horse Protection Association congratulates Chairman Foley and the members of this subcommittee for their work on legislation in the area of humane care and treatment of horses in commerce. It is a shocking fact that there are no Federal humane laws in this country to regulate the transportation of horses by truck, and over 90 percent of our Nation's horses, most on their way to slaughter, must travel by truck, usually under the most barbaric conditions. Therefore, the American Horse Protection Association wholeheartedly supports H.R. 16070.

The cruel traffic in horsemeat for pet food and human consumption, and the brutality to horses, many already diseased and dying, on their way to slaughter, has outraged members of APHA. State laws throughout the country are usually miserably inadequate to regulate trucking of animals going to market, or to provide for their humane handling while held in transit or in sale barns. Horses transported in quantity are subject to severe suffering imposed by overcrowding, poor ventilation, lack of food and water, trampling, and exposure to the extremes of heat and cold.

"Quick-buck" trucking firms drive from one horse auction to another gathering their loads, and holding the animals without rest, food, or water until their rigs are crammed and overloaded. Several tragic illustrations of this type of profiteering have been reported by AHPA members in upper New York State, near the Canadian border.

A well-known "killer-buyer" from Quebec, Canada, was arrested by the local SPCA and State police in Champlain, N.Y., for inhumane treatment of 400 to 500 horses being readied for shipment to Canada, where they were to be slaughtered for human consumption and their carcasses shipped to Europe. These animals were found to be confined without food or water; many were both diseased and injured. The "killer-buyer" was later released on \$100 bail.

Eleven other horses were killed when a truck carrying a total of 23 overturned on the Adirondack Northway near Wilton, N.Y., after the driver lost control of his tractor-trailer. State police said that the 23 horses were jammed into the back of the truck where they had stood for several days since leaving North Carolina.

New York State Police, while conducting a routine road check on the same interstate highway, found 2 trucks overloaded with 77 horses, some injured and diseased, packed so tightly together "that some of them would fall, and unable to regain their footing, were cruelly trampled to death."

Barnett Fowler, of the Albany, N.Y., Times-Union, described a typical incident:

The story was simple; the carnage sickening * * * The floor of a tractor-trailer loaded with horses destined for slaughter in Canada gave way and legs of horses were scrapping the highway pavement. Broken legs were numerous and one horse was trampled to death in the panic.

State police were forced to shoot others too badly injured to survive the journey. New York State Police estimate that as many as 10,000

such horses are transported across the New York-Canadian border every month.

Although some States specifically prohibit the conveyance of any animal in a cruel and inhumane manner, these laws are difficult to enforce because of inept local officials, ridiculously low fines, and the weakness of humane organizations in rural areas where abuse is most prevalent. Thus, Federal laws and regulations are desperately needed to reduce the torture of these helpless creatures. Because the problem is national in scope and via interstate commerce over highways built by Federal funds, it must be dealt with by the Congress.

As the American Horse Protection Association's president, Mrs. Paul M. Twyne, recommended in her testimony last week before this same subcommittee, our membership hopes that a strong bill will be enacted. We respectfully submit that such a bill should contain at a minimum the following provisions:

1. To outlaw overcrowding which can cause suffocation, injury and death;
2. To limit a standard 10-foot by 40-foot van to no more than 20 horses;
3. To set out standards of padding and bedding appropriate for the season and the vehicle;
4. To adopt standards making it necessary that mixed loads—horses and cattle—should be separated by partitions to prevent bruising, suffering, goring, crippling, or death;
5. To provide that horse vans be partitioned, allowing 2 feet across per horse so as to protect any fallen animal from trampling;
6. To make it mandatory for livestock to be watered and rested at least every 8 hours. Vans can easily be opened from the outside to allow for ventilation and water.

It has been proven that horses and other livestock are unable to relax while they are in motion inside a vehicle because they must constantly keep themselves braced. Consequently, after a few hours the animals become exhausted. Therefore, the above standards, especially those pertaining to resting and watering, are absolutely imperative.

We believe that the cost of enforcing this type of Federal legislation could be minimized by using those State police who already man the weighing stations where interstate trucks must stop for inspection.

On a recent trip by car from North Platte, Nebr., to Idaho Falls, Idaho, a journey of over 1,700 miles, and across three State borders, I had occasion to observe inspections of horse vans at various State weighing stations. As the chairman of this committee knows so well, members of the American Horse Protection Association have been intimately associated with the battle to preserve and protect the wild horses of the West. The chairman played an extremely important role in the House of Representatives to secure passage of the law designed to safeguard these hideously abused animals. And as the chairman knows so well, without Public Law 92-195, most of the wild herds would have perished in the slaughterhouse long ago.

One group of wild horses was transported on that long, long road from Nebraska to Idaho; these were the 18 pathetic survivors of one of the bloodiest massacres ever recorded. They had narrowly escaped being ground up into pet food, and were being returned to their home State of Idaho. The van, and the manifest presented by the

driver, were carefully inspected by the State police at every port of entry. But no one counted or even looked at the animals inside the van; it was obvious that their welfare was of no interest except to the representatives of the humane organizations following this particular rig.

Those humane society organizations were the American Horse Protection Association and the Humane Society of the United States. But these horses were special indeed because they are the subject of a rather famous Federal court case. In contrast, the majority of the Nation's horses in interstate transportation, those considered less historic, are manhandled like ordinary freight, left to suffer dehydration, insufficient food, neglect, injury, and slow and agonizing death, all of which seems fantastic in a Nation which prides itself on its superior civilization, compassion, religious ethic, and fair play. This ugly situation must be stopped, and stopped quickly.

The American Horse Protection Association, the most dedicated and concerned horse humane organization in America, urges therefore your prompt action on H.R. 16070. We need your help. The horses need this legislation.

Thank you.

Mr. FOLEY. Thank you, Mrs. Blue. If you can remain, we would like to have you available to answer questions following testimony from all the witnesses scheduled today.

The next witness will be Hon. George Smathers of the American Horse Council, Washington, D.C.

STATEMENT OF HON. GEORGE SMATHERS, AMERICAN HORSE COUNCIL, WASHINGTON, D.C., ACCOMPANIED BY R. RICHARDS ROLAPP, EXECUTIVE DIRECTOR

Mr. SMATHERS. Thank you very much, Mr. Chairman, for this opportunity. I will endeavor to be brief.

Mr. FOLEY. Would you introduce your associate?

Mr. SMATHERS. With me today is Mr. R. Richards Rolapp, who is the executive director of the American Horse Council. I am here as the general counsel for the American Horse Council. I would like to briefly describe our organization to you.

The American Horse Council is a national trade association representing a membership of over 1½ million American horsemen. There are 65 member organizations, including every major equine organization in the country. While horsemen are primarily represented through these 65 groups, council membership is open to both professional and pleasure horsemen as individuals.

Before discussing the specific provisions of the two bills which this subcommittee is considering today let me assure you that the American Horse Council is in full support of legislation which is necessary to protect animals in transportation or otherwise. It is for this reason that we are here today. Testimony has been presented before you describing certain abuses which have occurred in the transportation of livestock, including transportation of horses for slaughter. We do not excuse these acts and agree that measures should be taken to correct them.

Permit me to describe the transportation aspects of the horse industry, in order hopefully to lead you to our conclusion that legislation is only necessary with respect to transportation of horses for slaughter.

For purposes of this discussion I wish to distinguish two types of horseowners. The first category is comprised of those persons who race, exhibit, breed or market horses after making a substantial financial investment in the animal. The second category includes owners who have a lesser investment and who keep the animals solely for recreational purposes.

The horses which are owned for these purposes are separate and distinct from horses which are destined for slaughter, and my remarks are mainly concerned with horses other than those which are shipped for slaughter. The overwhelmingly majority of horses in the United States are not intended for slaughter.

Owners included in the first group have a substantial financial investment in their animals. The value of these animals can range from \$1,000 to \$6 million for a successful and well-bred racehorse like Secretariat.

Quite naturally every precaution is taken to protect such horses when they are transported in order to avoid any injury which would result in an economic loss. The horseowner like any other businessman will not endanger his investment and will do everything reasonable to protect it.

Those who own horses strictly for pleasure also have an investment that is both monetary and sentimental. The financial stake may be only \$200 or \$300, but the love for the animal more than compensates for any lack of economic interest.

Thus, whether emotionally or financially motivated, the responsible horseowners of the United States are deeply interested in the welfare of their horses. On their own, and without Federal supervision of any kind, these owners maintain their horses in a humane and proper manner. This attitude extends to all aspects of horse ownership including transportation. Owners who transport their own horses are obviously concerned for the welfare of the animal.

We recognize, of course, that the legislation under consideration is designed to prevent cruelty to animals and to assure their welfare while they are under the supervision of common carriers who are not the owners of the animals. However, transportation of horses differs materially from the transportation of other livestock. Because of the animal's size, configuration, and value, special care and equipment are needed to transport horses. The first priority of owners and carriers is safe transportation without injury. The carrier depends upon his reputation with horseowners for his livelihood.

As you might expect, there are relatively few horse carriers operating in the United States. Since horseowners are in constant contact with each other at racing meets, horse shows, rodeos and other functions of horse associations, information as to the manner in which a carrier treats an animal spreads rapidly within the horse community.

Thus, a carrier cannot afford to mistreat a horse or exercise less than responsible judgment in his handling of the animal. Injury will result not only in liability to the owner but also an increase in insurance rates and costs of operation. It will severely damage the carrier's good name among horseowners thereby resulting in a loss of business.

One horse van company has reported that the degree of care which a horse carrier must exercise is perhaps greater than is necessary in any other area of transportation because a dead or severely injured horse has no salvage value.

In fact, the proposed legislation in some instances would be detrimental to the horse industry from an economic standpoint. It is the owners, not the carriers, who will bear the additional cost of record-keeping, filings with the Department of Agriculture and compliance with the regulations. We therefore believe that while there may be reasons to regulate the transportation of various animals such regulation is unnecessary with respect to most horses. These circumstances lead to the inevitable conclusion that enactment of statute and the imposition of regulations upon horse carriers are neither necessary nor helpful. As I stated at the outset the American Horse Council strongly supports any legislation necessary to prevent abuse and cruelty to animals. It is our view that this legislation is unnecessary with respect to most horses, and we cannot support it as it is presently written.

As I noted earlier, the horses which I have been discussing do not include horses for slaughter, nor do they include the individuals or organizations engaged in the purchase or transportation for slaughter. It is our understanding that the intent of Congressman McEwen in introducing his bill was to prevent abuse of animals which are being transported to slaughterhouses in Canada and elsewhere. We are of the opinion that these matters can be corrected without regulating the rest of the horse industry through a very minor modification in the bills which are before you today.

Our suggestion is simply to limit the scope of the legislation to cover horses being transported for slaughter. This could be effected either by definition or by a specific statement as to the intent of the statute.

Now I would like to discuss some of the specific provisions of the legislation. It is our understanding that your bill, Congressman Foley, with the exception of section 15 does not apply to horses. In addition to the amendment which we suggested with respect to the definition of horses, we request that the report of this committee clearly indicate that the exclusion of horses under the Animal Welfare Act would continue with the exception of the provisions of section 15.

H.R. 16070 presents some significant difficulties which we wish to bring to your attention. While we believe it is the intention of the bill to govern the carriers with respect to the transportation of horses, we believe that the definitional provisions of the bill are so broad as to include even those persons who engage the services of a carrier. In other words, an owner who ships a horse for slaughter might be held liable for the activities of the carrier over which the owner has no control. We therefore would suggest that the term "any person engaged in the transportation of horses in commerce" be limited to persons actually transporting horses and that the bill be amended to eliminate the possibility of a person being held liable for the acts of an agent.

We would further request that section 203 of the bill be amended to assure that the experts which the secretary is authorized to consult must include horseowners and carriers. The language of that section as it is now drafted could conceivably result in promulgation of regu-

lations without consultation with those persons who are vitally concerned with the shipment of the animals.

Finally, we believe that certain limitations should be placed upon the powers given to the Secretary and his delegates under section 207 of the bill. Specifically, the powers of search and seizure under this section are so broad that they might be construed as being constitutionally impermissible. In other areas of the law with which we are familiar, there are stringent restrictions, normally by way of judicial supervision, upon the right of a Government agent to gain access to private property and to inspect records.

Second, the right of a Government agent to destroy an animal could result in severe financial loss to the owner of the horse. The amendment which we have suggested above would exclude from the provisions of this bill all horses except those being shipped for slaughter. Thus, an agent would not have the authority to destroy an animal which has economic or sentimental value.

In conclusion, we again emphasize our support for necessary legislation to prevent cruelty and abuse to animals. We submit that the bills which we have been discussing are unnecessary with respect to all aspects of the horse industry with the exception of horses destined for slaughter. The imposition of the provisions of these bills on the remainder of the horse industry is both unnecessary and costly.

In this period of fiscal responsibility and restraint on Federal spending as recently described by our new President, we ask that you restrict the scope of any legislation with respect to horses to those which are being shipped for slaughter. The remaining segments of the horse industry are self-regulating with respect to the shipment of horses and imposition of statutory and regulatory conditions will only increase the cost of transporting horses.

The provisions of H.R. 16070 which we have discussed above we believe should be amended in order to protect the rights of horse owners both from governmental invasion of privacy and from governmental destruction of property.

We appreciate this opportunity to appear before you and to discuss this legislation. I will be glad to answer any questions that you may have and to submit any additional information which you may need.

Mr. FOLEY. Thank you, Mr. Smathers. Although I understand you have a conflicting appointment, I hope Mr. Rolapp will be able to remain.

Mr. SMATHERS. Yes, sir.

Mr. FOLEY. Thank you.

Mr. FOLEY. The next witness will be Mr. Gordon Carvill, the president of the Dog Clubs Association of New York, Inc.

STATEMENT OF GORDON CARVILL, PRESIDENT, DOG CLUBS ASSOCIATION OF NEW YORK, INC., EAST GREENBUSH, N.Y.

Mr. CARVILL. Mr. Chairman and members of the subcommittee, I first wish to thank you for the opportunity to appear at this hearing. I feel somewhat, however, that I am in the wrong hearing room because I came to testify on behalf of small animals.

Others have testified on horses to this point. However, I would like to say this about the horse transportation problem. Living in the

Albany, N.Y. area, I happen to live at the junction of the New York State Thruway and the Adirondack Northway, the route over which most of these animals traveling to Canada travel.

Very recently, we had one of these vans stopped by the State police, primarily because the horses in the van had broken through the bottom of the van and their legs were dragging on the Northway.

When the van was stopped, the gentleman who was operating the van, a private owner who was transporting animals which he had purchased, we found that there were several dead animals within the confines of the van—this was an enclosed van—and there were several animals that had been cut very severely by the hooves of the other animals.

The animals that were dragging on the Northway had been drug for many miles and they had to be destroyed. The gentleman operating the van could have cared less. His statement was, "What is the difference? They are going to be killed anyway."

I would like to bring up another point, that is, that after an animal has been dead in one of these vans for 7 or 8 hours, I would question that animal as being qualified meat for human consumption. I think this should be looked into.

As stated, my name is Gordon Carvill, I am president of the Dog Clubs Association of New York, Inc. I have been active for the past 17 years as an owner and breeder of purebred dogs. For the past 9 years, I have been active at American Kennel Club shows as an approved judge.

I have served as president of the Albany Kennel Club and several other dog clubs throughout the country.

In our association, we wish to express our appreciation to Congressman Foley for conducting hearings on this important subject of animal transportation. I have traveled and observed at various airports and other transportation facilities various degrees of inhuman treatment of animals. Less than 1 month ago while on my way to Jacksonville, Fla., my plane stopped at Charleston, S.C. I observed a crate of puppies sitting in the hot sunshine on the blacktop surface of the airport. While descending, the pilot stated the temperature at Charleston on that day was 97 degrees in the shade. I do not know what the temperature was on that apron, but I wager it was probably in the 120-130 degree range.

After about 10 minutes on the ground and not seeing anyone make an effort to put these puppies in the shade, I decided to do something about the situation. I got off the airplane, contacted the foreman of the work crew who was servicing the airplane and asked him to please move the puppies into the shade. These puppies were going to be shipped on the very airplane that I was riding.

It would have taken little effort to move them into the shade. He gave me quite an argument and after a few minutes he did put the puppies in the shade. These puppies did not look to be in too good a condition at that point. I am particularly interested in sections 5, 10, and 12 of these amendments.

Section 5, paragraphs I and J, deals with the definitions of intermediate dealer-handler and common carrier. We feel these definitions should be broadened to cover all people involved in transportation in commerce of pet animals whether private or otherwise.

We should not make exceptions. For instance, I would be running a puppy mill in Kansas. I could buy myself a van. I could fill it with 4,000 puppies and head east. I could be just as inhuman as the person who is doing it for a livelihood. I do not think that the dealers and these people should be excluded in this bill.

Section 10, paragraph B deals with the health of the animals before shipment. We feel making health certificates a matter of law will result in standardized procedures and requirements. For example, we would hope that health certificates on animals to be shipped will be completed not more than 5 days before shipment.

This and other such regulations would go a long way toward stopping some of the fraudulent sales of sick animals to the unknowing public.

Section 10, paragraph "C" deals with the minimum shipping age. We agree with the intent, however, we would like to comment that all pet animals intended for sale to the public not be shipped under 8 weeks of age and preferably 10 weeks of age.

This approach would protect pets going into homes as well as consumers without unnecessarily limiting shipments of similar types of animals often necessary for other types of purposes.

It should be pointed out that some carriers equate the mistreatment of animals with death of the animals. Where, in fact, the inhuman treatment most frequently does not result in death, but in extreme pain and suffering. Section 10, paragraph "D" deals with c.o.d. shipments of pet animals. We are of the opinion that this amendment is an absolute necessity.

We know of cases all over the Nation where pet animals left at airports and other transportation facilities where the consignee will not accept the shipment because he does not have the money to pay the c.o.d. charges.

Recently, I became involved in a case last December where two crates of puppies were assigned c.o.d. to a local pet shop in the Albany area. These puppies arrived at the airport on December 17 and on December 27, they were still at the airport. The puppies were without food and water and proper care for 10 days.

They were kept alive by virtue of the fact that some kindly airport personnel gave them puppy biscuits occasionally. They were standing and sleeping on their own excretion for those 10 days. The airport people told me they had to move these puppies outside during the day because of the odor.

In the Albany area, it is not very warm in December. The temperature ranges in the area of 15°, sometimes going below zero. This, I feel, is not humane treatment of animals. However, the sad part of all this is the fact that the pet shop would not accept the shipment because the Christmas rush was over and there was no sale for the puppies. The airline could not ship the puppies back to the consignor until January 6, because of the extremely heavy passenger travel during the holiday season. These puppies were removed by the humane society in the Albany area. Two of this group died from exposure. I feel this section as proposed would put an end to this type of inhumane treatment.

Section 13, paragraph "D," deals with penalties for violations. In assessing violations for penalty, it is proposed that the penalty shall

not be more than \$1,000. We feel a minimum penalty should be proposed such as not less than \$100. The section would then read, "The penalty shall not be less than \$100 nor more than \$1,000."

We state this because too many times when there is no minimum range, the judge simply charges the minimum, slaps their wrists and they go out to do it over again. We feel there should be strength in the bill.

In conclusion, I would like to say that voluntary efforts in this area among both government and industry groups have been in process for many years. It has become obvious that this approach will not work. Regulation of pet animal transportation must be a matter of law.

We recognize both the problem and the contributions of various Government departments in this area, but we believe that the Department of Agriculture should be the responsible agency. This is the only department with the technical experience and the capability to carry out the problem. I want to thank you very much for listening.

Mr. FOLEY. Thank you, very much, Mr. Carvill.

We are happy to have your testimony.

Mr. FOLEY. I apologize for having passed over Mr. George Buchanan, vice president of the Air Transport Association. He will be the next witness.

STATEMENT OF GEORGE BUCHANAN, VICE PRESIDENT, AIR TRANSPORT ASSOCIATION, WASHINGTON, D.C., ACCOMPANIED BY GLEN STEPHENS, MANAGER, PACKAGING & CLAIMS PREVENTION, CARGO; AND KATHLEEN O'NEILL, ATTORNEY, ATA

Mr. BUCHANAN. Thank you, Mr. Chairman and distinguished members of the committee. My name is George A. Buchanan. I am vice president—traffic of the Air Transportation Association of America. With me are Kathleen O'Neill, attorney for ATA, and Mr. Glen Stephens, ATA's manager of claims prevention, who is active in the industry in the air transportation of animals.

The association is a trade and service organization representing virtually all of the U.S. scheduled airlines. As you know, one of our member airlines, United, appeared before this committee yesterday and suggested that any further regulation in this area be implemented through the Civil Aeronautics Board tariff process, rather than through additional legislation. United also provided the committee with a detailed technical statement of the terms and conditions of acceptance of live animals as well as the environment in which they travel by air.

I appreciate the opportunity to appear before the subcommittee on behalf of our other member carriers to support H.R. 15843 and to suggest certain amendments.

The airlines share the concern of the subcommittee over the humane treatment of animals. It is our sincere desire to assure that pets and animals which are shipped by air are transported safely. The airline industry believes that it is providing an important service both to the individual citizens who may need to transport pets over long distances and to the various commercial enterprises which ship animals all over the country.

Although precise information is not available as to the individual types of animals nor as to the numbers transported, it has been estimated on the basis of a survey made by the association that the airlines carried an average of approximately 2,000 animal shipments per day in 1972.

This figure is conservative since it is based on an examination of cargo waybills and does not include animals such as household pets, which are carried under the provisions of baggage tariffs and are not separated out of baggage records. It is estimated that of the hundreds of thousands of pets shipped by air in 1972, less than one-tenth of 1 percent resulted in fatalities. Any fatality is deeply regretted, but we should point out that very few of these incidents can be attributed to conditions or activities on board the airplane. Most of these unfortunate incidents can be traced to circumstances which occur prior to loading or after unloading and are related to causes which can be resolved by the provisions of this bill. Among these are improper packaging, lack of standards for kennels and containers, and delivery to the airlines of sick and/or unhealthy animals through the lack of or through an improperly issued health certificate. Even so, the vast majority of live animals shipped by air arrive at their destination safe and sound.

Three Federal agencies have jurisdiction over the air transportation of animals: the U.S. Department of Agriculture, the Civil Aeronautics Board, and the Federal Aviation Administration. The Department of Agriculture has authority to inspect shipments up to the point of delivery to the common carrier; the Civil Aeronautics Board controls transportation rates and tariff provisions; and the Federal Aviation Administration has broad jurisdiction over the aircraft and its operation and stowage procedures.

There is no basic conflict of jurisdiction but the necessity for interagency coordination is obvious. This necessity was recognized by the House Committee on Government Operations after its hearings on the problems in air shipment of domestic animals in September 1973. The committee report recommended that an interagency committee be formed to identify existing problems and to develop corrective regulations.

It stated that:

The interagency committee should develop standards for animal shipping containers, taking into consideration such factors as structural durability, ventilation and size requirements of various animals. These standards should then be assimilated into the regulations of each of the three agencies, obligating common carriers to refuse any shipment that does not comply with the regulations.

We understand from the testimony of other witnesses that the interagency committee structure recommended by the report has been formulated and will soon be in operation.

The airlines welcome this development and will work with the new committee as they have with the individual Federal agencies and with various private groups who are striving to improve conditions of shipment, transit, and delivery of animals.

The carriers have taken the initiative to improve conditions for the air transportation of animals through CAB tariff procedures. However, primarily because of shipper protests, there have been delays in carrier efforts to secure approval of these tariffs which incorporate

more effective standards for the documentation, acceptance, delivery, and containerization of animals for air shipment.

We support H.R. 15843 with the amendments suggested below because we believe its enactment could result in the improvement of existing standards and the safer shipment of birds, pets, and animals. We oppose certain provisions of the bill which unnecessarily impose additional registration and recordkeeping requirement on air carriers which are already licensed and regulated by the CAB under the provisions of the Federal Aviation Act.

Section 6 of the bill would include "intermediate handlers" and "common carriers" as persons who must register with the Secretary of Agriculture and comply with rules and regulations prescribed by him. The requirement that an air carrier register with the Secretary of Agriculture is unnecessary and should be dropped. Air carriers are required by law to obtain certificates of public convenience and necessity from the Civil Aeronautics Board before they can engage in air transportation of any kind.

Such certificates are issued only after lengthy and detailed proceedings and their service is closely regulated by the board at all times. There would appear to be no justification for the expense and inconvenience involved in requiring an air carrier which is already licensed and regulated by the Federal Government to register with the Secretary of Agriculture.

Section 8 imposes certain recordkeeping requirements on "intermediate handlers" and "common carriers" of animals. Air carriers issue airbills on each air freight shipment and file records of claims with the Civil Aeronautics Board. Documents are also issued and retained on animal shipments carried under the provisions of baggage tariffs. These records and reports should be adequate to reflect the air transportation aspects of animal shipments and the legislation should be amended accordingly.

If it is subsequently found that additional details are required from the airlines, we suggest that this be handled through the CAB's regulatory processes rather than by legislation.

We feel there is an inequity in section 13 which provides for the assessment of civil penalties against intermediate handlers and common carriers of up to \$1,000 for each violation of any regulation that would be issued by the Secretary of Agriculture in connection with this act. The law presently allows the Secretary to impose a cease and desist order on any persons other than "intermediate handlers" and "common carriers." Failure to comply with a cease and desist carries a fine of only \$500 per violation. The airlines oppose this inequitable differentiation in penalties and recommend that the same penalty provisions be applied to all persons coming within the jurisdiction of the act.

Specifically, Mr. Chairman, the airlines would request that they also be supplied with the cease-and-desist provisions in this section.

Sections 9 and 10 constitute the heart of the bill. Section 9 would require the Secretary of Agriculture to promulgate standards for the handling, care, and treatment of animals for transportation in commerce, subject to the approval of the Secretary of Transportation as stated in section II of the bill. The airlines support this provision since it would place the regulatory authority in the department with

the required expertise and would establish controls over noncarriers and in areas which are not now adequately regulated.

We support subsection 10(b) which would forbid any carrier to receive for transportation any animals unless such animals are accompanied by a certificate issued by a licensed veterinarian certifying that the animals are sound and may be reasonably expected to withstand transportation without adverse effects. This provision parallels the current requirements in some States and some international requirements for health certificates for the transportation of animals. Moreover, it would insure that the animals received are healthy enough to withstand possible extended transportation by air.

Section 10(c) would forbid the transportation of very young animals. We support this provision but feel it should be examined closely. It is necessary to emphasize the need for the Secretary to retain the authority to grant exemptions which would distinguish between warmblooded and coldblooded animals. More particularly, attention should be given the fact that baby chicks, ducklings, and turkey poults must be shipped within 72 hours after hatching.

Section 10(d) would forbid the transportation of animals on a c.o.d. basis. This is designed to prevent animals from being stranded and left to die when not picked up and paid for. The carriers strongly endorse this provision.

In conclusion, Mr. Chairman, the airlines endorse the intent of this legislation. We do object to the requirement that the airlines must register with the Secretary of Agriculture, to the recordkeeping provisions and to the inequity in the proposed penalties. We urge that these two sections be amended along the lines suggested.

May I again thank the committee for this opportunity to appear and you may be assured that the airlines will continue their efforts to better the transportation of animals.

Thank you, sir.

Mr. FOLEY. Thank you, Mr. Buchanan. We are happy to have your testimony today. I gather that there are differences of opinion between United Air Lines and the other air carriers on this subject. Do you feel this observation is correct?

Mr. BUCHANAN. That is not the position taken by the other members of our association. That is correct, Mr. Chairman.

Mr. FOLEY. I think your statement has been very valuable. If you could, we would like to recall you and your associate at the time we come to questions.

Mr. BUCHANAN. We shall be happy to do so, sir.

Mr. FOLEY. The next witness will be Dr. Bernard Levine President, Pet Farm, Inc., Miami, Fla.

STATEMENT OF DR. BERNARD LEVINE, PRESIDENT, PET FARM, INC., MIAMI, FLA., AND MARSHALL MEYERS, LEGAL COUNSEL

Dr. LEVINE. Thank you, Mr. Chairman, for allowing me this opportunity. Sitting beside me is Marshall Meyers, legal adviser to Pet Farm, Inc.

I am a member of the American Animal Hospital Association, the Institute of Lab Animal Research, American Association of Zoological Parks and Gardens.

I am presently vice president of the Pet Industry Joint Advisory Council. I have a business that ships animals throughout the United States and all over the world. I am also a practicing veterinarian in Miami, Fla.

I am presently on the faculty of the University of Miami, Department of Ophthalmology.

First, concerning the Whitehurst bill, I think the Pet Industry Joint Advisory Committee wholly endorses this bill. We feel that pet shops and also all commercial concerns that handle live animals should be under regulations to protect the humane treatment.

There is no reason that certain animals get the protection and that other animals do not. There are many different commercial groups that are not under the regulations. We feel the Department of Agriculture with the proper funding and personnel should have jurisdiction to go in and see that these animals are also treated in a humane manner.

There is no reason that a parakeet deserves a certain amount of protection and that a chicken does not. There is no reason that a puppy so-called allegedly shipped from a puppy mill deserves certain protection and one from a dog pound does not.

Presently these groups are not under the regulations of the Department of Agriculture. The Pet Industry Joint Advisory Council feels that all these groups should be under the same regulation and should provide the same protection for these animals.

I am anything but a statistician but on the airplane up this morning, I started to figure out some of the costs. I feel it is definitely a requirement of the Congress to provide the funds and the personnel for the USDA to begin to regulate this package.

There are an estimated 8,500 retail pet stores and probably another 12,000 chain stores that handle birds and animals in the United States. There are probably another 1,500 pounds and other concerns that either auction or sell or donate animals for funds, approximately 22,000 more groups for the USDA to go in and begin to regulate.

Figuring a salary of \$200 a week and the cost of a car at \$200 a month and the cost of \$1,000 to train this individual, the Government is talking in the neighborhood of \$600,000 in the first year. This excludes any real cost of the Washington regulation itself or the overhead.

It will be very unfortunate to provide a regulation without providing the funds and personnel to see that this regulation is enforced because in the past the Department of Agriculture has not had the funds and, therefore, those who have been concerned have been regulated.

The companies that really provide for the animals have had the inspections and had them regulated. Those that are not concerned and where the inhumanity is usually most prevalent have not been regulated and the government has not gotten around to regulating these.

This is unfortunate for the animal and also unfortunate for those who want to provide humane treatment.

As a dealer, initially the Department of Agriculture came in to my establishment once a month. Recently, it is getting down to once every 3 or 4 months. Of course, when they come in now they do not have the time as they did initially to discuss different shipments and

the different provisions they initially began with, but they rush in, more over fast and move out.

We are aware that funds have been cut back from the Department on many expenses. This is not the way to provide humane treatment for animals.

I would now like to discuss H.R. 15843 finally. A regulation may come up that will provide the standards for treatment, for shipping containers, for food and water and so forth, in animals for transportation. It has been a long time coming.

We feel that the Department of Agriculture does have the expertise to work with different committees that have been set up so far in providing these standards. It is our feeling that this is imperative. Presently, there is no way for our associations or for any government agency to tell a shipper or to tell any concern that they are not providing an adequate crate.

Therefore, the bad mark goes against the name of those who are providing excellent crates and standards as well. We feel, concerning the airlines themselves, once the animal is placed in the hands of the airline, it would be an unfortunate circumstance to bog them down with additional regulations from the USDA and to allow the tariffs of the CAB to provide whatever standards are set forth.

These are the standards the airlines should face. In other words, tariffs from the CAB.

As a veterinarian, I have signed quite a few health certificates. I believe the terminology that is used presently would be very restrictive on the person signing the particular certificate.

Sound quite often is used to judge a horse by a veterinarian that will be in good racing form or that has absolutely no defects in its stance, posture, and so forth. This would require extensive diagnostic work.

I feel generally most health certificates from different States where the veterinarians are licensed state usually that the animal is free or apparently free of contagious and infectious diseases.

You can generally do this by observation. If you get much more restrictive, most veterinarians are not going to get involved unless they charge a due fee to see that the animal has complete blood work, radiographs, and so forth, done to provide this convincing evidence that it is sound and definitely can make the trip by air.

Usually, the problem is the animal is definitely showing signs of infectious or contagious disease or in a state of malnutrition. This is easily observed by looking at the animal without going into a lot of extra work.

The 8-week requirement on puppies is, I think, a fantastic rule of thumb and should be a good beginning. Unfortunately, there are many animals that require different ages. For instance, hamsters for research and many rodents warrant animals that are 3 or 4 weeks old.

This requirement would require a committee that would be aware of the different ages. We also know that some breeds of dogs can take a trip at a younger age than others. It is a good rule and something that we should work on and something that will stop the general commercial shipper who shipped a 4-week-old dog that should not be shipped on its own.

It is a good rule and should not be a definite statement. The real problem my company would face, and many other companies in the

industry, pertains to the part that concerns the prepayment of freight as well as no c.o.d.'s.

I am sure there are those cases where animals have been refused because the dealer has not paid the c.o.d. However, as you people are aware, airlines see to it, and the CAB sees to it, that the individual who ships the shipment has signed a waybill and will pay the freight both to and from on that animal if it is refused.

Every time we take a shipment to the airport, it is understood that we will pay the freight back on that shipment if our customer refuses it. Our company is 22 years old. I have been affiliated with Pet Farm, Inc., for the past 5 years.

I can only think of two instances when a shipment was refused because of the c.o.d. In one case, we called another customer in that same area and they picked it up. In another case, we brought the animal back. The big problem will come in prepaying freight and in no c.o.d.'s.

Quite often people will send money in advance. There are a lot of un reputable people in the United States. Dealers will send money for certain animals which will be on price lists and they will wait months and months.

Specifically, you will see many times advertisements in magazines that provide for somebody to pay in advance for animals. I am sure that the post office gets bombarded with these things.

It would almost be impossible for commercial shippers to start paying freight in advance. Financially, you would put this individual in a poor position, almost to an impossible way of continuing to be in business.

You probably are well aware that tropical fish is the largest air commodity in the State of Florida and animals and fish alone are a tremendous volume at least for the airlines in the State itself.

I think an estuary would be anybody who refuses a c.o.d. shipment would be committing a Federal crime and establish something along these lines and these people would be much more aware that if they had no intention of paying to begin with, they could be charged with a misdemeanor or a felony.

Mr. FOLEY. Thank you. We shall recall you in a few minutes along with the other witnesses.

The next witness will be Mr. Floyd Clark, the National Pet Dealers & Breeders Organization, Barnes, Kans.

STATEMENT OF FLOYD CLARK, NATIONAL PET DEALERS & BREEDERS ORGANIZATION, BARNES, KANSAS, AND MARSHALL MYERS, LEGAL COUNSEL

Mr. CLARK. Thank you, Mr. Chairman and members of this committee, for a chance to speak here.

I have with me, our counsel, Mr. Myers.

I am Floyd Clark, the National Pet Dealers & Breeders president. I am an executive committee member of the Pet Industry Advisory Council. My wife Rachel and I own and manage S. & R. Kennels. We have a USDA license, 48 BOA-1.

We are the first pet dealer and breeder under the Animal Welfare Act in Kansas.

We support the intent of H.R. 16070 and H.R. 15843. We think these efforts are only the beginning. Much more is required. Our present licensing requirements are not being enforced. They are not broad enough.

They should, we think, include the retail outlets, kennels that advertise in publications that are shipping these animals into commerce. We think any animals going into commerce should be effected.

Under the act my kennel pays a license fee of \$750 per year. Many people in our industry, while subject to the same law, remain unlicensed. It is due mainly to USDA's lack of funds and manpower.

Kansas has at this time in excess of 1,300 licensees. If the job would be completed, it would be very nearly 2,000. Some States have not even started and some very nearly state that they don't intend to start until pressured.

The original intent of the regulations was that my facilities would be inspected monthly. Due to USDA lack of funds, I have been inspected approximately six times in 3 years. The inspector arrives and performs his duties well, but the problem is there are just not enough inspectors to monitor the breeders in the industry.

They need money and support to carry it out. We are in agreement with the objectives of H.R. 15843. Section 9 of the bill is needed. The specific rules as they apply to transportation must be included in the common carriers tariffs.

We are presently before the Civil Aeronautics Board where standards will be promulgated to cover this. Our methods of handling animals are not unique. We don't do anything you wouldn't do. Proper AKC papers and proper packaging are required.

In 1973, we lost two puppies out of approximately 5,000 puppies shipped. So far this year, we have lost one puppy out of nearly 3,000 shipped. We are confident that the CAB will develop proper standards for the human transportation of animals.

The bill calls for properly executed health certificates for all warm-blooded animals. While in my opinion dogs should not be handled without health certificates, USDA should be the ones to determine as to which ones should be given health certificates.

Probably 90 percent of the problem caused in the industry is caused by marginal, 20 to 25 percent, veterinarians that will sign health certificates of puppies they have never seen and may not have been within 50 miles of, people who will put puppies in crates and ship them with very little regard.

Some form of legal restraint must be imposed. However, the term to be included in the health certificates must be rational. As to the 8-week rule, we believe USDA should be given the authority to make standards by species.

Some breeds can be shipped at 8 weeks. The concept on age restriction is proper, but not an 8-week rule. My comments are limited to dogs. I ship only dogs.

I see no reasoning for discontinuing the c.o.d. privileges. In 14 years, we have shipped in excess of 40,000 puppies. One half of them have been sent by c.o.d. In 14 years, I have had one shipment returned because the pet shop would not come to the airport and see the puppies.

They were kept at the Newark, N.J., Airport for 3 days. On the fourth day, they were returned to me. REA had taken excellent care of these puppies. They were in good shape when returned.

We, in turn, got in touch with the Humane Societies of Newark, with the Veterinarian Societies, with various persons and were instrumental in getting this shop closed down.

I have had an instance of a personality conflict between an REA driver and a shopowner. As this man started his deliveries in the morning, the shop was on the left-hand side of the road. He would not cross the street and deliver in the morning. At 4:30, he delivered my puppies dead from riding in his truck all day. The puppies were then billed to a service station across the street and they were delivered there.

Commonsense will rule in many of these things. We have signed an agreement with REA Express that any time a puppy of ours is to be returned, we would pay all charges, the transportation charges.

They are instructed that any care these animals might need, give them, and we will pay all charges. We think this is only reasonable.

The feeding, watering, exercising is proper. An absolute ban is not. This concludes what I might have to say.

I thank you, Mr. Chairman, for giving us a chance to address this committee.

Mr. FOLEY. Thank you, Mr. Clark. After we have heard from our last witness we shall ask you to return.

The last witness is Mr. Robert Beckman, counsel, Legislation for Animal Wards, Washington, D.C.

STATEMENT OF ROBERT BECKMAN, COUNSEL, LEGISLATION FOR ANIMAL WARDS, WASHINGTON, D.C.

Mr. BECKMAN. Mr. Chairman and members of the subcommittee, thank you for the opportunity to present the views of the Legislation for Animal Wards, on the Animal Welfare Act Amendments of 1974.

Our parent organization is a nonprofit humane organization supported by thousands of animal lovers throughout the country. It is committed to the protection and care of animals. Wards is in the forefront of the continuing struggle to provide for humane treatment for animals.

These animals cannot care for themselves. They are our wards. We have the moral responsibility to protect them from harm, neglect, and mistreatment.

We congratulate Chairman Foley on his examination of a serious problem in the government's protection in the health and safety of animals in transit. Intermediate handlers and common carriers should be brought within the provisions of the Animal Health and Welfare Act. Needless injuries and death have occurred. It is essential that intermediate carriers and common carriers be required to maintain adequate standards of care.

We agree with the prohibition against transportation of animals less than 8 weeks old. It would appear that all the interested governmental agencies agree on the principles underlying H.R. 15843. The real question is what will, in fact, result from the legislation before

this committee? The U.S. Department of Agriculture resists the responsibility and authority to regulate the activities of common carriers and intermediate handlers, with good reason.

The Department of Agriculture is unable to carry out effectively the responsibilities it now has. We do not blame the Department of Agriculture for warning us not to expect a resolution of the problem by merely enlarging the responsibility and authority of the Department of Agriculture.

This bill, Mr. Chairman, puts the Department of Agriculture in a false position. People will think that the problems of care for animals in transit are solved by dumping them on the Department of Agriculture. They will not be and the Department of Agriculture knows it.

It would be a mistake, Mr. Chairman for us all to applaud this bill and when it passes believe that its worthy objectives will be fulfilled. The Department of Agriculture is spread too thin with too little in resources to do the necessary job.

You have just heard Mr. Clark tell you that he had had six inspections in 3 years. We do not oppose this bill. We only warn that it is not and will not be the answer to the problems it addresses.

To meet these problems, we must call on all the resources of Government. The Special Studies Committee of the Subcommittee on Government Operations has called for action. The Department of Agriculture, within its limitations, has inspected airport facilities.

The FAA, as Mr. Rudolph testified last week, is taking action in the limited sphere under its control. The Civil Aeronautics Board is taking action in a proceeding relating to acceptance and carriage of animals.

Under the leadership of an administrator, law judge, and the dedicated staff, innovative procedures have been adopted to draw on the accumulated experience of the air carriers, the pet industry, and human organizations.

For the first time, air carrier representatives, pet industry representatives and representatives of human groups are working together under tight procedural deadlines to embody in the tariffs of the carriers appropriate requirements for the caring and handling of live animals in air transportation.

Many share our optimism that this proceeding will go a long way toward achieving the goals we all seek. We respectfully call the attention of the subcommittee to section 9 of H.R. 15843, which requires the Secretary of Agriculture to promulgate standards to govern the transportation by air carriers, other common carriers and intermediate handlers of live animals.

While the USDA should be required to use its expertise in promulgating such standards, we urge the committee to see that it does not inadvertently create a conflict with the Civil Aeronautics Board to enforce and to provide safe and adequate equipment and facilities in connection with air transportation.

The tariffs of air carriers provide an existing vehicle for implementation and most importantly effective, prompt enforcement for transportation of animals by air.

These legal mechanisms are in existence today. The Civil Aeronautics Board has elaborate machinery available. It would be a great mistake to create any conflict with the historic role of the Civil Aero-

navics Board in assuring safe and adequate equipment and facilities in air transportation.

We do not believe there need be a conflict. The Federal Aviation has promulgated standards related to the safe transportation of animals in aircraft. We believe there is no monopoly of knowledge, experience or concern in this area.

The Department of Agriculture can make its contribution as does the Civil Aeronautics Board and the Federal Aviation Administration.

Finally, Mr. Chairman and members of the subcommittee, we respectfully suggest that H.R. 15843 be enlarged to include the creation and funding of a unique and novel board which we submit is absolutely necessary in order to focus the abilities, energies, and expertise of the diverse agencies and groups involved in this problem.

We submit that a board should be created, composed of representatives of the Department of Agriculture, the Civil Aeronautics Board, the Federal Aviation Administration, the air carriers, the pet industry, the humane groups, cat and dog fanciers, and pet owners.

The members of this board should be nominated by each of the groups themselves, thereby creating a board composed of the best qualified representatives of each group in the opinion of the group itself.

Meetings of the board should be subject to the call of any two members. We propose a board which will be active, aggressive, and truly representative of the affected interests.

Mr. Chairman, we are grateful for the opportunity to appear here.

Mr. FOLEY. Thank you, very much. We are very happy to have your testimony. If you will remain where you are, we will ask all the other witnesses to come forward. Mr. Mayne?

Mr. MAYNE. Thank you, Mr. Chairman.

Mr. Beckman, I get the impression that you feel that the CAB could pretty well handle this thing alone with a little encouragement. Is that the impression that you meant to convey?

Mr. BECKMAN. Yes, sir. I think we have in being an existing mechanism, including elaborate enforcement machinery to really get the job done.

We have unfortunately the experience that the U.S. Department of Agriculture has been unable, as it candidly confesses, to do the job it was put on 3 years ago. If we want this job really done, we submit we have to be sure not to infringe on what the Civil Aeronautics Board is doing.

Mr. MAYNE. In general, I would like to avoid a proliferation of new groups to do an essential function if it can be done by one that is already existing.

Do you really think with some strengthening of their regulations and the authorizing legislation that sets up the CAB, that we could effectively secure safe and proper handling of animals?

Mr. BECKMAN. Yes, sir, I don't believe you need any further legislation. The legislation that has been in effect since 1938, which imposes a legal duty on every air carrier to provide safety, adequate service, equipment, and facilities and further requires that the Civil Aeronautics Board has the duty to determine whether these rules are reasonable and further imposes strict penalties on the carriers if they don't comply with these rules is an excellent mechanism.

Mr. MAYNE. What would you suggest, then, as to animals that do not move by air?

Mr. BECKMAN. For those, I think we would have to do what we are doing through the Department of Agriculture. However, we warrant that the Department of Agriculture does not have the adequate resources to do the job that has already been put on it.

Mr. MAYNE. You would not feel that the Interstate Commerce Commission could perform on ground transportation the same functions that you do feel that the CAB can do as far as air transport is concerned?

Mr. BECKMAN. I think they can and should, sir. The same requirements on tariffs filings are in the Interstate Commerce Act. There is not, however, the duty to provide safe and adequate equipment facilities and service imposed on interstate carriers by surface as the Congress has wisely and uniquely placed on air carriers in the Civil Aeronautics Act of 1938.

The tariffs that are filed at the ICC are sort of knowing, to be candid. It is a mechanism that can and should be employed, sir. I definitely support your idea.

Mr. MAYNE. I do not want to claim this as my idea. However, I wanted to get your reaction to what would be done with regard to ground transportation.

Mr. FOLEY. To follow along with the gentleman's question, Mr. Beckman, there is concern that if more stringent rules are promulgated by the CAB than those applying to ground carriers, this lack of uniformity might encourage heavier reliance on surface transportation that may not be safe. How do you feel about this and the advisability of imposing a central standard for all common carriers?

Mr. BECKMAN. I understand and accept the problem. However, I have never seen it defined. It strikes me as hypothetical for this reason, Mr. Chairman.

The real problem is that there virtually are no standards in the tariffs now. That is what this proceeding at the Civil Aeronautics Board is trying to remedy. I respectfully suggest, sir, that the problem is highly hypothetical.

My own feeling and reaction to the people that are involved in the Civil Aeronautics Board proceeding, the air carriers and the others, is that they are sensitive men. They are concerned. They do have a feeling of the necessity for humane treatment as well as economic benefits to the carrier of providing proper treatment so that the shipments arrive safely.

I think we are going to have some standards come out of that that are reasonable and will not present any conflicts. My feeling is that the problem is hypothetical.

Mr. MAYNE. Thank you, Mr. Chairman.

Mr. FOLEY. Would anyone else like to comment on that?

Mr. BUCHANAN. Yes, I would like to comment on that. I think certainly the airplanes would not want to get into any condition where there were conflicting regulations between two different branches of the Government.

However, I don't see that this would necessarily and certainly would not work out that way. We have suggested that it would be appropriate for the Department of Agriculture to promulgate these standards for two reasons.

First, neither the Civil Aeronautics Board nor the Federal Aviation Administration has control over other than air carriers. The Civil Aeronautics Board has some control over freight forwarders, but there is a large number of the population in the animal shipping industry that is not controlled by the CAB or the FAA.

Second, the Civil Aeronautics Board on several occasions has stated that they do not at least currently have the expertise in this particular area.

I believe, If I am not mistaken, that their witness in these hearings so stated. It is true that there are efforts going on, cooperative efforts which Mr. Beckman has mentioned, between the airlines, pet industry, humane organizations, and the Civil Aeronautics Board to come up with some standards.

I am sure that eventually those will be reflected in the airline tariffs. The problem the airlines have been running into in the recent past is that the standards they field have been disapproved by the CAB and sent up for investigation.

There are probably many ways in which this new organization, if this legislation is passed, might work. One possible way is that the standards would be set by the Department of Agriculture. I would, of course, assume that that would be done in close consultation with other branches of the Federal Government as well as with industry.

After the establishment of those regulations, it would then be possible, as one course of action, that those regulations could be adopted in the carrier's tariffs which would then be available for their own personnel as well as the shipping public. Thank you, sir.

Mr. FOLEY. Thank you.

Yes, Doctor?

Dr. LEVINE. You mention there are a tremendous number of animals shipped. Where would this be?

Mr. BUCHANAN. Did I say there were a number shipped by non-commercial?

Dr. LEVINE. I think most everything goes by air transportation, probably way in excess of 90 percent.

Mr. BUCHANAN. Mr. Chairman, what I was referring to there was for those air shipments, there are a number of organizations and individuals involved in the shipment by air that are not controlled by CAB or FAA.

I did not intend to broaden my remarks to the surface shipment of animals since I have no knowledge or expertise in this area.

Mr. FOLEY. I think the rules of the committee prevent witnesses from examining one another.

I would like to bring up the subject of the restrictions on c.o.d. payments. Apparently this is a matter of concern to veterinarian dealers.

Mr. Buchanan, is it the present practice of all carriers or only some to require waybills which guarantee the return of the animals at the shipper's expense?

Mr. BUCHANAN. I cannot comment on that at this time. I heard the testimony this morning. Though we know there are certain instances where the animals are returned, I cannot answer specifically. I will be happy to provide that information to the committee staff.

[Mr. Buchanan subsequently submitted the following:]

AIR TRANSPORT ASSOCIATION OF AMERICA,
Washington, D.C., August 22, 1974.

Congressman THOMAS S. FOLEY,
U.S. House of Representatives,
Washington, D.C.

HON. MR. FOLEY: I was requested during the Livestock and Grains Subcommittee hearings relating to H.R. 15843, Animal Welfare Act Amendments of 1974, to provide the Committee Members with information concerning the air carriers acceptance of collect-on-delivery (COD) shipments of live animals.

We have researched our tariffs and have found that, at one time, certain air carriers required the shipment of live animals and, in certain instances, some carriers specified shipments of dogs, to be prepaid unless the shipper had given a written guarantee for the payment of the collect charges. In addition, another tariff rule had the effect of denying collect-on-delivery (COD) service to shippers and consignees of animals for those carriers who specified transportation charges should be prepaid, unless the shipper had provided a guarantee for the payment of the collect transportation charges. In effect, this would have restricted the acceptance of COD shipments when shippers did not provide a guarantee payment of the transportation charges, including the return transportation if necessary.

These specific tariff rules were published in the official Air Freight Rules Tariffs No. 1-B, CAB No. 96, published by the Airline Tariff Publishers, Inc. The specific rules included Rule 56(B) (8) (12), entitled *Charges Prepaid or Collect*. This rule indicated that shipments of live animals (by certain air carriers) or dogs (in the case of certain other air carriers) must be prepaid unless the shippers guaranteed in writing the payment of collect charges. Rule 66(B) (1) (a) (b), entitled *Collect-On-Delivery Shipments*, provided that shipments requiring either prepayment or guarantee of payment pursuant to Rule 56 would not be afforded collect-on-delivery service, as Rule 66, when considered in conjunction with the provisions in Rule 56, would preclude COD service for shipments so involved.

These rules were in effect when the Civil Aeronautics Board, by Order 69-9-149, dated September 29, 1969, instituted an investigation of the rates and charges and the related rules, regulations and practices of all the domestic air carriers for interstate transportation of live animals and birds (Docket 21474). Public hearings on this proceeding commenced on November 30 and concluded on December 16, 1971, and the hearing examiner's (now known as Administrative Law Judge's) initial decision was issued June 13, 1972. The examiner concluded that Rules 56(B) (8) (12) and 66(B) (1) (a) (b) were unlawful.

The Civil Aeronautics Board by Order 72-8-52, dated August 10, 1972, granted petitions for discretionary review and stayed the initial decision in its entirety. Oral arguments were held and the Civil Aeronautics Board, by Order 73-6-103, submitted its decision on June 26, 1973. Whereby, the Board concurred with the Administrative Law Judge's initial decision and indicated the tariff rules were unreasonable and unlawful for shipments of dogs or other live animals.

I submit this information for the Committee's review and consideration as to whether or not this item need be reflected in the hearings record.

Respectfully yours,

GEORGE A. BUCHANAN,
Vice President—Traffic.

MR. FOLEY. In your judgment, would the difficulties associated with c.o.d. shipments be alleviated if law required all carriers shipping on a c.o.d. basis to pay for the return of animals, if need be?

MR. BUCHANAN. That would be one step. It would involve some additional handling of the animal. It is our feeling that the best way would be to eliminate the c.o.d.'s entirely.

MR. FOLEY. Do we have any comments on that statement? I understand that those who object to the c.o.d. shipments do so on economic grounds.

MR. MYERS. The only statement I wish to say is that pending before the board right now is consideration of a rule which would require all air carriers to make every shipper on a c.o.d. shipment guarantee in writing to provide for the payment of any additional expenses incurred.

That is pending before the board now. The original air carrier that became concerned with c.o.d.'s was Braniff. That came about because Braniff had a single shipment which was causing it serious problems on c.o.d. shipments. That shipper is no longer in business. Unfortunately, the board has not yet acted on that decision and it is not yet final.

Mr. FOLEY. Is there any objection among the Pet Industry witnesses to such shipping requirements?

Mr. MYERS. Many shippers still ship under that requirement even though it is not a requirement. REA does require it as a condition before shipping.

Mr. FOLEY. Mr. Rolapp, in your testimony I believe you indicated that you felt the regulations concerning the transportation of horses should apply only to those being shipped for slaughter. I would agree that most owners of valuable horses take precautions to insure their safety. Therefore, it would be in their interest to have strict regulations governing their shipping. I have trouble justifying a law which imposes stricter regulations for the shipment of horses for slaughter than for others.

Mr. ROLAPP. I don't think so, Congressman, based upon what we stated in our earlier testimony. That is, that horses with a significant value are shipped under conditions now without exception where they are protected in every respect.

This is done by the carriers involved and owners are very cognizant of the conditions under which their horses are shipped. I just can't see any need to have any legislation that would put additional requirements on those carriers, thereby increasing costs, and so forth, for the owners of those horses.

On the other hand, we do see a significant problem with respect to horses going for slaughter. Many of the instances that have been referred to today have been reported to us.

We think those abuses should be stopped and legislation similar to the legislation that is before this committee could effectively do that.

Mr. FOLEY. How would there be an economic burden if the shipper is following such exemplary practices to begin with? Under the act, all he would really have to do would be to register and to provide a certificate of health for the horse certifying that he is sound for transport. That is not a heavy burden, is it, for a valuable horse?

Mr. ROLAPP. No. Other than filing a certificate of health is generally a practice that is followed.

Mr. FOLEY. Isn't the certificate of health usually required by the shipper in order to protect himself against liability for any unsound condition the horse may develop while or following transportation?

Mr. ROLAPP. No, it is not generally required by the shipper.

Mr. FOLEY. I mean by the transporting company, by the carrier?

Mr. ROLAPP. No. It is not in most instances required by the transporter. I know of no cases where it is required by the transporter. I am talking about ground transportation for the most part here. There are certificates of health required often by those who are responsible for management of the facility where the horse is consigned, that he is free from any disease that might possibly infect other horses.

For instance, if he is going to a racetrack or horseshoe facility, a lot of times they require certificates. Also, there are State laws regu-

lating certain diseases such as equine infection, such as anemia or swamp fever.

Mr. DENHOLM. Would the gentleman yield?

Mr. FOLEY. Yes.

Mr. DENHOLM. The language in the proposed legislation that bothers me is "horses for slaughter." If you are to ask that a horse be certified as sound to be sold for slaughter there is likely a failure to recognize the reason the animal is being transported for slaughter.

Mr. FOLEY. The question was directed for those that are being transported for exhibition or racing purposes or who are involved in other than slaughter destination.

The Chair has to advise the Members there is a rolleall pending on the floor.

Dr. LOPEZ. May I answer this?

Mr. FOLEY. Yes.

Dr. LOPEZ. I am Dr. Lopez of Lake Placid. As far as horses going by carrier at the present time, there is no regulation that they have to be identified as sound. They just get a certificate that there are x number of horses on the truck and that when they were put on the truck, they were alive and in some kind of health. There is no problem in this respect.

At the same time, horses going for slaughter today, there is absolutely no regulation as to whether you can put 10 or 40 or 100 horses in a truck. I think it is rather auspicious of the American Horse Council, which prides itself on its handling of horses, to find fault with the minimal requirements of this bill.

All it states in the bill is that there are going to be minimal requirements as with respect to ventilation, feeding, watering, and that the van should at least stop two or three times a day to see horses get some water and see if any horses are down in the truck.

I can see no problem in the American Horse Council. There are booklets put out by the Trailer Corp. for the traveling of high-priced horses. In a 20-foot van, they put in 6 horses. We are asking in a 40-foot van for a limitation of 20 horses. At the present time they are putting in 40 horses. We are only asking for minimal humane care.

Mr. HODGE. Might I make a brief statement? I don't think the problem is at all confined to horses destined for slaughter. In many cases, these animals are destined for auctions and from auctions they may go to slaughter or riding stables or in a low-grade market as some pleasure horses.

Also, we are currently involved in a case in Virginia with a commercial enterprise which is headquartered in Florida, which takes horses around as part of a circus for pleasure rides.

Between now and January, they are booked solid throughout the Southern States. These animals will work 16 hours a day. That has been attested to. The Humane Society is now in the process of placing charges. We are not concerned just with horses destined for slaughter.

Mr. FOLEY. The chair hoped we would have more time for questions, but the bells have already sounded for the second time, and the vote will end in about 8 minutes.

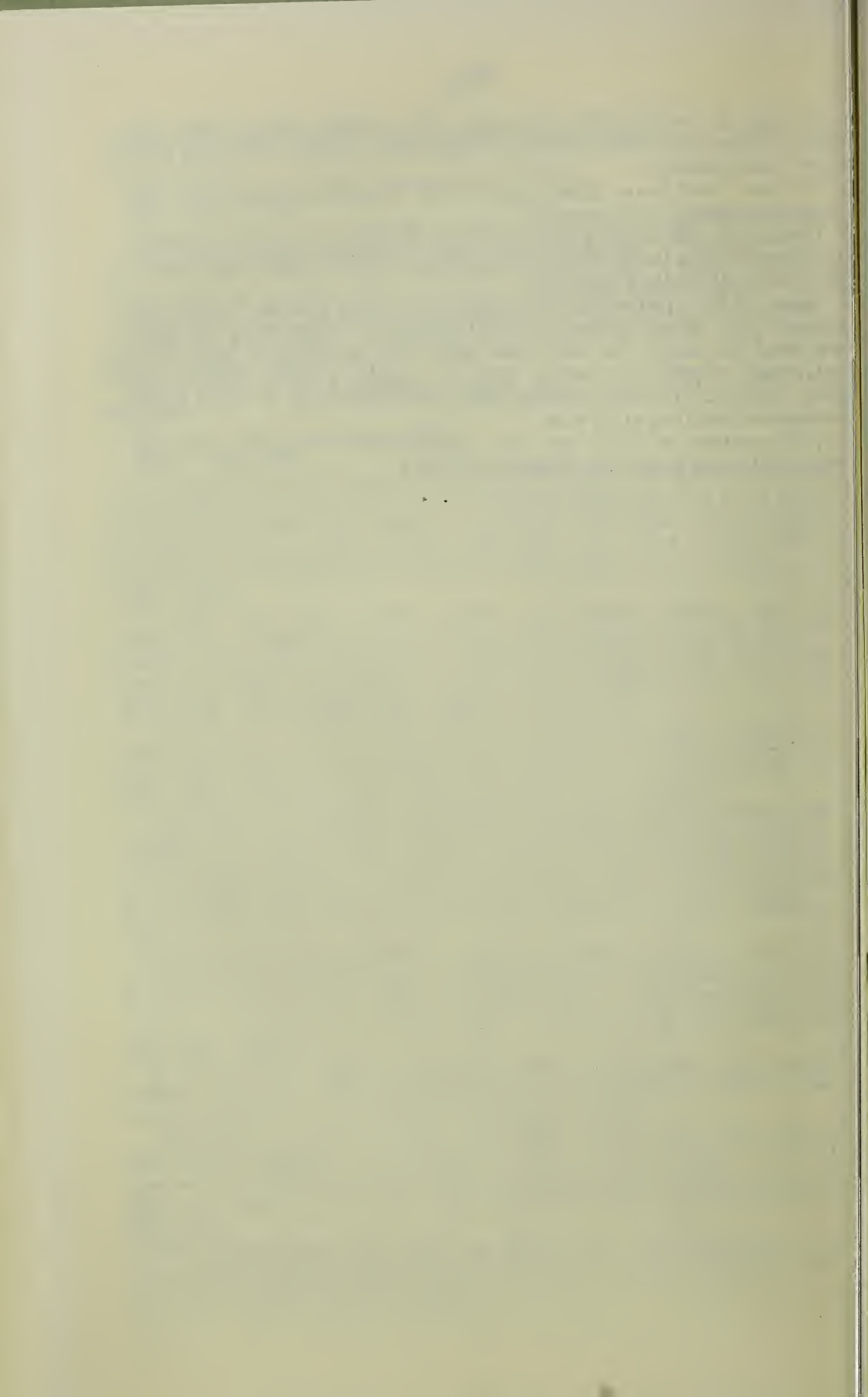
I want to thank all the witnesses who testified today. The testimony addressed to the problems before this subcommittee has been very commendable.

We have had some interesting variety of opinions as to how the committee should now proceed.

One of the difficulties we face is that just as there are jurisdictional problems within the Federal Government, there are also jurisdictional problems within the Congress.

Some of the approaches we might take would possibly have to be cleared with other committees of Congress. In any case, however, we want to assure the witnesses that your testimonies have been extremely helpful, interesting, and invaluable. I thank you all for your interest. The subcommittee will stand adjourned to meet again tomorrow morning at 10 a.m.

[Whereupon, at 12:20 p.m., the subcommittee recessed, to reconvene at 10 a.m., Thursday, August 15, 1974.]



ANIMAL WELFARE ACT AMENDMENTS OF 1974

THURSDAY, AUGUST 15, 1974

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON LIVESTOCK AND GRAINS
OF THE COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to recess, in room 1301, Longworth House Office Building, Hon. Thomas S. Foley (chairman of the subcommittee) presiding.

Present: Representatives Foley, Bergland, Zwach, Price, Sebelius, and Symms.

Fowler West, staff director; Steve Pringle, staff assistant; Mrs. Perry Shaw, clerk; and L. T. Easley, press assistant.

Mr. FOLEY. The Subcommittee on Livestock and Grain will come to order. The committee meets for further hearings on H.R. 15843 and other bills relating to the Animal Welfare Act.

The first witness this morning will be Mr. Rutherford T. Phillips, executive director, American Humane Association, Denver, Colo.

STATEMENT OF RUTHERFORD T. PHILLIPS, EXECUTIVE DIRECTOR, AMERICAN HUMANE ASSOCIATION, DENVER, COLO.

Mr. PHILLIPS. Thank you very much.

My name is Rutherford T. Phillips and I am executive director of the American Humane Association.

The American Humane Association is a 97-year-old federation of more than 1,150 agencies and societies dedicated to the Prevention of Cruelty to Children and to Animals, Inc. in the District of Columbia.

Some of its member agencies are over 100 years old, others have recently been formed. Some are small, depending on the efforts of dedicated volunteers, others are large with tens or scores of professional workers.

All seek to prevent cruelty to those who cannot always protect themselves, many perform important public or semipublic functions on a local, or even statewide basis. Almost every agency spends a large portion of its time and money on humane education, particularly among school children.

Many of the major cities of the United States engage such societies to perform their animal control responsibilities, with excellent results in our larger metropolitan areas. Also, societies for the prevention of cruelty to children and affiliated public agencies carry a large part of the burden of protecting children from abuse or neglect.

We strongly support and urge passage of H.R. 15843 on behalf of our member organizations engaged in the prevention of cruelty to animals.

H.R. 15843 to amend the Federal Laboratory Animal Welfare Act and the amendments incorporated in the Animal Welfare Act of 1970 has a commendable purpose which many of us have been urging for a number of years.

We have found no disagreement among organizations or groups involved with the handling and use of animals but rather a support of the general purposes set forth in the draft bill.

Many of us find from experience that legislation couched in general terms, which permits the establishment of regulations and, with change in such regulations as needed provides a much more workable act to carry out the intent of protecting animals and improving and providing safeguards during transportation.

Sections 10, 12, 13, 14, and 15 gives the Secretary of Agriculture the ability and instruction to modify regulations as necessary and to coordinate such regulations with existing laws and regulations of other departments of the Government.

As H.R. 15843 is studied by this committee and others in the Congress, I am sure there will be areas of concern to other governmental departments regarding existing health and inspection procedures.

It is suggested that perhaps some such provision for amendment which is provided in section 11, which points out the necessity for approval of the Secretary of Transportation from the standpoint of flight safety on air transportation standards, may be needed to coordinate the present meat inspection standards, enforced by the U.S. Department of Agriculture, and public health standards, under supervision of the Department of Public Health, communicable disease sections, and quarantine regulations, as well as regulations of the U.S. Customs Service, since all are involved one way or another with the transportation of animals.

It might be well to consider establishing an advisory committee to the secretary, as was established when the humane slaughter law first went into effect, to get the input of technical experts in the governmental agencies, in the transportation field and those people regularly involved in raising, handling, shipping, and receiving live animals.

In dealing with a problem as complex as this, cooperation of all involved can save time and give support to those in the Department of Agriculture who will have the responsibility for enforcing regulations.

In support of the prior statements, I would like to point out that the American Humane Association was formed in 1877 by the then existing societies for the prevention of cruelty to animals to coordinate their efforts in assisting the Government in providing protection for livestock in transit. The original law regulating the transport of livestock by railroad and barge was passed shortly afterwards and later amended and improved as the act of June 29, 1906 (45 U.S.C. 71-74).

Concern with the problems involved in the transportation of animals led to the calling of a conference May 23 and 24, 1960, by the AHA, which was attended by representatives of all groups concerned with animals and their transportation.

It is interesting to note that at that meeting a resolution was adopted favoring the extension of the provisions of the 28-36 hour livestock transportation law to all forms of transportation and that there should

be encouragement given and a recommendation that major airport facilities should provide special animal handling facilities such as animal ports to care for animals delayed in shipment or needing special attention.

At this first meeting are also recommendations for the need for humane handling, crating regulations, provision for special needs and/or veterinary care during the layovers and education of transportation personnel in the special needs of animals.

As a result of that first meeting 14 years ago, a continuing informal group, known as the National Council for Animal Transportation, has met to develop cooperative ideas and programs. Among other recommendations were some input to the IATA manual.

Other recommendations have been that of a special committee which has urged the need for research into the environment within the cargo compartments of aircraft which is affected not only by the type of ventilation and temperature control but also by the effect of other types of cargo upon live animals. It is difficult to establish standards without facts.

Mr. Chairman, committee members, I have taken a few moments of your time with this background information to indicate that the problem of animal transportation and the possible mishandling which can lead not only to a humane concern but to an economical loss has engaged the interest of many people including those who raise the animals, through to those who use the animals for animal products for the benefit of man.

As citizens of this country, all of us are basically educated to humane ideals and always seeking to find ways to do a better job.

As I mentioned, enough people representing government departments, breeders, shippers, and consignees of animals were interested to get together in 1960 and have met eight times in national meetings and half a dozen times in subcommittee meetings since that time because we were seeking cooperative ways of solving the problem of mishandling.

I feel that we need legislation and regulations to enforce the voluntary recommendations such as the IATA manual and other excellent guidelines prepared by the airlines, railroads, the American Humane Association, and so forth.

Under the Animal Welfare Act, the Department of Agriculture has done an admirable job, but has been limited by their inability to enforce regulations at some points where inadequate personnel, education, or mechanical or natural problems have interfered with the normal flow of traffic of livestock, including everything through pets and laboratory animals.

It is my interpretation of the concern of all of these groups that we would welcome the passage of H.R. 15843 and its implementation. As pointed out above, there may be some specific areas where we will have to clarify the need for veterinary preshipment inspection, in the case of livestock going to slaughter, or the age limits on certain animals needed in research, but I believe we have enough interest and concern on the part of all who will be affected by such a law and set of regulations that these problems can be solved with cooperation.

The American Humane Association urges favorable action, not only by this committee, but by the Congress, on H.R. 15843 and action to

implement the establishment of regulations and enforcement of such standards and regulations.

Thank you for permitting me to present my thoughts.

Mr. FOLEY. Thank you. We will continue with the rest of the witnesses and will then ask you to return to the table for questioning when all initial statements have been made.

The next witness is Mr. Eugene Kohn, president, Doctors Pet Centers, Andover, Mass., accompanied by Marshall Meyers, counsel.

Mr. Meyers, may I have your full name for the record?

Mr. MEYERS. Marshall Meyers, counsel. I testified on Tuesday.

STATEMENT OF EUGENE H. KOHN, PRESIDENT, DOCTORS PET CENTERS, ANDOVER, MASS.; ACCOMPANIED BY MARSHALL MEYERS, COUNSEL

Mr. KOHN. My name is Eugene H. Kohn. I am an executive committee member of the Pet Industry Joint Advisory Council, which is a supraorganization for a number of interested parties within the pet trade.

In addition, I am president of Doctors Pet Centers, Inc., which is a chain of 115 pet stores, three owned by the company and the balance franchised by independent operators who operate presently in 23 States.

I am here today to support the objectives of H.R. 15843 as being useful to insure the humane treatment of animals in breeding, in shipping, and selling.

I am also here to support meaningful and enforceable legislation and that requires, I believe, some modifications in proposed legislation.

Last, I would like to pledge not only my personal cooperation with this committee and the committee's objectives which may in fact come into legislation, but also the cooperation of Doctors Pet Centers and the Pet Industry Joint Advisory Council, now before any regulations are written, and in advisory capacity after any regulations are put forward.

Perhaps it might be helpful to take a quick look at the industry in general, which this committee is investigating, and to which this legislation to proposed additions are directed.

I have no information and cannot provide any help in terms of laboratory animals or zoos or exhibitions or the horse market, but I would like to concentrate on the pet trade.

It is about \$4 billion in size—\$1.7 billion of that is in food and that is not covered by this legislation. Approximately \$200 million in retail sales is in the grooming business and other pet services again not covered by this legislation.

Covered in the pet supply business is \$850 million at retail—again not covered by this legislation. Pet animals sold for consumer use approximate about \$600 million worth of volume at retail—all of these figures, incidentally, come from Pet Shop Management Magazine, Pet Supplies and Marketing Management, an issue of May 1973, a general survey of the entire industry.

The \$600 million in pet animals are compromised primarily of half of that amount or about \$300 million in fish and fish animals, of course, which are not covered or contemplated by this legislation.

Then, we are left with an industry size that we are talking about here for regulation of approximately \$250 million to \$275 million worth of volume at retail in dogs and cats, about \$53 million in gerbils and hamsters and other small animals, approximately \$70 million and birds if Mr. Whitehurst's bill would be adopted and put his amendment upon the Animal Welfare Act.

It seems to me two things are clear; one is that the animals that we are talking about all require different standards, regulations, and concerns.

The question of health certificates, of age restrictions, of shipping conditions, of breeding conditions, of housing conditions are surely different for hamsters and gerbils than they are for dogs and cats.

It seems to me particularly that we should be concerned with dogs and cats. There has been little evidence presented to my knowledge in the area of small animals, in terms of health problems, communicable diseases which are not adequately covered by the CDC and other organizations.

It seems to me we should concentrate our time and effort in considering the dog and cat portions for purposes of consideration.

We have had a lot of conversation concerning "puppy mills" and it might be helpful to define the distribution process of how an animal gets from a breeder to the customer.

Essentially, it happens in two ways: either through a pet store or through a local breeder or kennel. The pet store supply comes from a kennel, largely in the Midwestern States and the largest kennel, and I think this is important to recognize the size of the industry, the largest kennel which I know about which is shipping only its own dogs, a breeder only, ships only 30 to 40 dogs per week.

The rest of the dogs move through what are called either collectors or brokers. These are people who go out to the farms where a housewife might have four or five bitches which she is breeding on a regular basis as a supplement to the farm income and sell it to a broker or collector who, in turn, sells it to the pet trade.

The amount of volume according to this survey that moves through this channel of communication, that is through pet store from breeder or broker directly to the pet store and consumer, represents somewhere between \$100 million and \$120 million worth of retail volume per year.

On the other hand, approximately \$180 to \$200 million per year reaches the consumer through the kennel or breeder. These are people who are similarly situated to the farmer-housewife in the various States in the Midwest and is located in other areas and who sells their animals to the customer directly either through classified advertising in newspapers or through fancy magazines, and these are animals that move in intrastate commerce or interstate commerce. I took a survey of 10 of our cities: San Francisco, Los Angeles, Cleveland, Phoenix, Norfolk, Milwaukee, Columbus, Tampa, Baltimore, and Dallas.

I looked in the yellow pages and looked at stores listing dogs for sale. There were 50 stores listed. If each carried 20 dogs for sale, that would mean about 1,000 dogs available.

The classified advertising during one Sunday when this survey was taken offered 960 animals for sale. I would submit to you that the number of animals that move to the customers through pet shops and from hobby shops and kennels are approximately the same.

The primary sources are Kansas, Iowa, Nebraska, Oklahoma, Minnesota, California, Ohio, and Washington. The largest number of licensed kennels and the largest number of brokers and collectors that we deal with come from these 10 States—the pet shops themselves.

Mr. FOLEY. I'm sorry for interrupting; however, we do have a problem today. Although the House is to convene at 11 o'clock, I will attempt to sit here at least until noon except for rollcalls.

Under the circumstances, we shall have to ask the witnesses to limit their testimonies to 7 minutes.

Mr. KOHN. Mr. Chairman, I will try to be considerate of your time and particularly the other witnesses' time. We support both the pet industries, the effective, legitimate control of the transportation, purchase, sale, housing, handling, and treatment of animals.

We want two things to happen. We would like to have effective legislation and that means that adequate funds need to be provided to the USDA to get the job done and done effectively.

We need staff and budget to get it done right, not to get out the inhumane breeders, inhumane hobbyists, inhumane pet stores, inhumane animal shelters defeats the purposes of the bill totally.

Secondly, we think the legislation should require the Department of Agriculture to require industry experience and knowledge to replace rumors and prejudice.

We think that this can best be accomplished through an evidentiary hearing proceeding with an administrative law judge where decisions can be made in that manner as opposed to a standard rulemaking with written comments.

That has worked in the past in other situations and can be very helpful in terms of this piece of legislation and animal welfare, concerns which we all have.

Some of the issues we think would be best remanded to this kind of procedure. I refer here specifically to the definition of proper health certificates and how health certificates may in fact be handled.

We do not oppose them. We would like to see them. Not one for each bird, not one for each hamster, but effective health certificates.

We think the question of an 8-week age limit for hamsters, gerbils, and dogs and cats need to be examined in an evidentiary kind of hearing before an administrative law judge because we think that standards can vary and should vary, not only within species of animals, but within breeds of dogs.

We think the question of COD, its elimination of protection, or whether it does have protection for rejection of animals at the pet shop level should in fact be reviewed in this same manner.

Other areas, such as the question of transportation, we think, should be handled by, and we support the kinds of things which are going on before the CAB and its hearings before other regulatory agencies because the modes of transportation are most properly handled, we think, in that regard, so that our general conclusion is that while we support clearly the objectives of the bill and we in fact evenly give our support to the licensing of pet shops which would be the first time within the Federal jurisdiction, we do not oppose that kind of legislation.

What we are asking for is that this committee in its legislation leave the specifics and the details of these items to the Department to utilize the kind of spirit which I think has grown up in the last couple of

months—not only within our industry, but between our industry representatives and people from the humane groups to effectively work out, if we can, the kinds of standards and practices which will allow us to work for the common goal that we agree with in this piece of proposed legislation. I hope I have been brief enough. Thank you for your time.

Mr. FOLEY. Thank you. You have been very helpful.

I am sure the subcommittee will give serious attention to some modification of the language of the bill in order to afford more flexibility in implementing the standards that are generally advanced in the legislation.

I still am very much aware of the fact that many programs in the field of animal health and welfare have not been funded as heavily as I think the need indicates. However, the committee just received word that President Ford has vetoed the Animal Health Research Act. This is the second veto of a bill recently passed by this committee.

We apparently, will have problems in all areas of Federal legislation as a result of the demand for restricted spending. As I am sure all the witnesses realize, this is not the best possible climate for improving some of the programs that I think deserve additional resources and attention.

Thank you very much.

Mr. FOLEY. The next witness will be Ms. Patricia Forkan representing the Fund for Animals, New York, N.Y.

**STATEMENT OF MS. PATRICA FORKAN, NATIONAL COORDINATOR,
THE FUND FOR ANIMALS, NEW YORK, N.Y.**

Ms. FORKAN. Mr. Chairman, and honorable members of this subcommittee:

My name is Patricia Forkan, and I am the national coordinator of the Fund for Animals, Inc. The Fund for Animals is a national anti-cruelty organization with a dozen offices throughout the United States working daily to promote humane treatment for all animals.

I want to thank you and express my appreciation for the opportunity to comment on H.R. 15843. The Fund for Animals believes that this bill will definitely improve the lot of so many animals now subject to great suffering while in transit.

We submit that there is no longer any question as to whether or not cruelty exists in the shipment of animals. This distinguished committee has seen photographs and heard many sad and horrifying stories of starvation, exposure, sickness, and death. The public has seen too.

In response to growing public interest, Ladies Home Journal—circulation 7 million—asked the president of the Fund for Animals, Mr. Cleveland Amory, to write an article on the subject. That article appeared in the May 1974, issue. I would like to submit a copy of it for the record.

[The article, "Pets and Flying," is retained in the committee files.]

Ms. FORKAN. In response to that article we received over 500 letters from shocked and angry readers. Mr. John Stevens, managing editor, said:

In all our years in the mass media, neither my staff nor myself had ever seen a mail like this one. It was unprecedented. Seldom do we get a response of

this size from an informative-type article—it usually runs only two or three letters.

Most readers were thankful to know how potentially dangerous air travel is for their pets. Sadly, others reported that this information came too late and their pet had been killed, maimed, or highly traumatized. For example, Mrs. Jeannette Alexander sent her cat from Massachusetts to Florida. Her parents met the flight, and watched while the cat's crate was thrown from the aircraft onto the baggage cart—only to miss the cart and land on the runway. The cat was left in 90 degree heat on the runway as the rest of the baggage was taken to the terminal.

Lawrence Kingsley shipped his Labrador retriever from Madison, Wis. to Louisiana. He personally wheeled the dog into the luggage area and was assured that the dog would be loaded on the same flight with him—he wasn't. Indeed, the dog did not arrive on the next flight, but on the third flight, 7 hours later.

Mr. Kingsley said, "What I think is interesting is not that North Central lied to me, but that no amount of personal exertion on the part of the owner is sufficient to assure that the airline will perform the service for which the customer thinks he is paying."

Mrs. Helen Phelps arrived in New York City only to receive an empty crate. Her specially built carrier had contained two Manx cats. They had somehow been lost in the Los Angeles Airport even before she left. One was found 2 days later covered with oil and a large wound on its leg. It eventually died of a blood disease.

In almost every single letter, the writer declared that until conditions improved, he would not go by air with his pet. Indeed, many indicated they would even change vacation plans and drive.

Recognizing the competitive nature of airlines, it is reasonable to assume that if they can offer a choice of gourmet meals to the passengers, surely a drink of water to the animal passengers is not too much to ask.

And, that if safe transportation of animals could be accomplished, then a significant number of people would begin to travel by air.

We believe this committee can do a great deal to provide workable effective solutions. It is not enough to ask airlines to regulate themselves. There must be uniform Federal standards as specified in H.R. 15843. There must be specialized personnel who are responsible for the health and welfare of the animal passengers—not how many bags are loaded and how fast. Airline ground and baggage crews are under pressure to get the luggage to the passengers as fast as possible. There is no incentive to stop and consider live animals. Nor, apparently, do they have the ability or training in many cases to consider their needs or know that animals should not be left in extremes of weather conditions. If someone is not held responsible then blame is passed on and the animals continue to suffer.

Therefore, we recommend that each carrier designate a person to be responsible for animal cargo. If traffic does not warrant his full attention, then he could take on secondary duties, but his prime responsibility would be for the live cargo. Each such person should be trained by the USDA and be under the jurisdiction of USDA inspectors.

Poor judgment on the part of cargo personnel has accounted for far too many of the losses and much inadvertent cruelty.

In regard to REA, which handles, according to much of the preceding testimony, 90 percent of the animal cargo, there should be a full-time person on each shift solely responsible for the health and welfare of the live animal cargo.

Again, they would be trained by the USDA and be under the jurisdiction of USDA inspectors. These special agents should have training in first aid, and names of local veterinarians on call. They would be only at airports designated by USDA as having enough traffic to warrant it.

We believe that special training is necessary because the public would, rightfully, want a qualified person handling, feeding, and administering care to their animals. I don't think we can just designate someone and say water it when they haven't had some kind of a brief introduction.

One of the biggest problem areas in handling animals in air travel is, ironically, on the ground. We would like to suggest that this committee look into the feasibility of large containerized units to hold individual animal kennels prior to and following their flight. This unit could be attached to the baggage cart and be climate controlled and soundproofed.

In case of delays, this unit could be left on the runways and the animals would not experience the stresses.

Also, they could be detached and taken to special holding areas; they could be unloaded last, prior to departure, and loaded first upon landing. They could be left out in inadequate weather conditions, still protecting the animals.

As further assistance to the specialized agents, we would like to see uniform labeling requirements. On each container the label should include contents, name, address, and phone number of the shipper; time accepted for shipment at point of origin; flight number and destination, including connecting flights; special instructions for care and feeding; name, address, and phone number of recipient.

Under section 10(b) we cannot emphasize enough the importance of valid health certificates. Not only for the sake of the animals, but also for the crews handling the cargo.

The magazine, *Modern Veterinary Practice*, in their February 1973 issue, ran an article called "The Exotic Animal Problem." In it they cited cases of nonhuman primates carrying hepatitis, TB, and other transmissible diseases.

I quote:

In a recent case, a chimpanzee imported from Africa transmitted hepatitis to the Florida dealer who imported him, then passed on the disease to three employees of the Houston Zoo that later bought him.

Another chimp, bought by a physician as a pet, passed along hepatitis to the doctor as well as a niece and nephew who came along to play with the infected pet.

Obviously, an invalid certificate for these animals could be potential health hazards. Little has been said about the transporting of exotic animals, particularly those coming into the country. This part of the industry has been notoriously bad.

Again from the same article:

A cruel numbers game is constantly in progress in the collection of wild animals for resale as pets. For every animal that makes it to the pet shop, up to 10 others die, and regardless of assurance by animal wholesalers regarding harvesting precautions, the grim fact is that the native who originally sets out to get the

animal, does it in the easiest way he can—usually by killing the parents, destroying the animal's habitat, or both. Transporting the animal costs more lives, and the animal control officers routinely report cases of young monkeys, jammed 20 or 30 to a cage, huddled in fright amid the corpses of the nonsurvivors after a terrifying 36-hour flight, often without food or water.

Many animals are captured and shipped before they are weaned, simply because their capture is easier at that age, and during transit rough handling, frightening noises, extreme temperature changes and the absence of a mother for comfort and protection exact a massive toll on these young animals.

The mortality rate is so taken for granted that exporters routinely ship many more animals than they actually expect to arrive, to compensate for the anticipated deaths en route.

In response to these abuses, we ask this committee to add under section 13(d) a fine to be assessed for violations including the issuing of false health certificates by a veterinarian, the presentation of false health certificates by the shipper, and any violation of the act on the part of a foreign carrier including acceptance of improper containers for shipment into this country; or false health certificates.

We also ask that the age of the animal be on the health certificate and the date of inoculation.

There are many reasons why we are here today. One of them is that the public is sick and tired of going into pet shops and buying an expensive puppy, only to find in a few days that it is ill, and often dies, or the vet bills mount. Why does this happen? And it happens far too often.

The Better Business Bureau had so many complaints in New York City that they conducted an investigation as they put it, "to clean up our backyard."

It was a perfunctory effort, and the backyard remains the same. It happens because the animal is taken at too early an age from its mother, subjected to grueling days of travel, trucked into the pet shop, then out to the happy new owner. Airlines claim they don't "lose" many animals, in their care that only a few die while in their care. That is probably true, they usually die at the end of the trip, in their new home, not in the air.

Section 10(c) by establishing a minimum age limit, will do a great deal to save the public from such needless heartbreak, and cost. We believe, however, that at least 10 weeks should be the minimum. This would allow for adequate weaning time and time for the puppy shots to take effect. Even though the animal is inoculated, it takes 10 to 14 days to become effective.

We also don't think that the research community need fear the loss of young animals for experiments as this section already gives the Secretary the necessary discretionary powers. We feel 10 weeks for puppies, and that is an absolute minimum.

Section 10(d) which prohibits c.o.d. shipments is a must. Stopping this practice may seem a harsh and possibly unfair regulation, especially to those who run the so-called puppy mills. But we submit that type of commerce will have to be regulated very soon anyway.

While there is a flood of puppies and kittens going into our cities, millions of taxpayers' dollars are spent annually to kill hundreds of thousands of unwanted animals—in pounds and shelters.

We ask, should the public continue to be in the business of killing surplus animals, so the puppy mill business can continue to profit? We say rather than being a service to the community, many pet shops are

just the opposite. If anyone wants a pure bred puppy, they would be far better off going to a local breeder or, better still, go to a shelter where there are hundreds of puppies and kittens to choose from.

Congress should at least license these pet shops. They have no one to look after them now.

In regard to protection of livestock, we firmly believe that this industry should be brought under control and humane standards set for their transportation. This should be brought under this bill.

We have worked with and supported the work of the Council for Livestock Protection and fully support their testimony at these hearings.

Livestock are not so unique as to be eliminated from consideration in this bill—their needs are the same as any living creature including food, water, adequate space to move, rest and exercise. We do hope this committee will do something positive for these animals.

In conclusion, I would like to say, that if every party in the long line from shipper to recipient accepted his share of the responsibility in a way that put the welfare of the animal above expediency, above sheer economics, above indifference, then the problems would be minimal. Unfortunately, experience has proven otherwise and there is no choice but to set the proper humane standards—now. Thank you very much.

Mr. FOLEY. Thank you very much, we appreciate your testimony, Ms. Forkan, and we would like to have you back for questions, if you are able to remain.

Mr. Bernard Fensterwald, Jr., counsel to the Committee for Humane Legislation, Washington, D.C.

STATEMENT OF BERNARD FENSTERWALD, JR., COUNSEL, COMMITTEE FOR HUMANE LEGISLATION, WASHINGTON, D.C.

Mr. FENSTERWALD. Good morning, Mr. Chairman. I will certainly stay within my 7-minute limit. I would like to thank you and the other members for taking the time to hold these hearings. We think it is extremely important.

Mr. FENSTERWALD. Mr. Chairman, the Committee for Humane Legislation wishes to thank you and the subcommittee for this opportunity to testify on this much-needed humane legislation, H.R. 15843, amending the Federal Laboratory Animal Act. The committee appreciates the efforts your subcommittee and you personally are making to put an end to the cruelty to animals in shipments which occur daily in our country.

Although the issue of transporting animals has been brought to the public's attention through the loss of animals in air travel, the issue now being discussed is a far broader subject—that of the pain, suffering, and death of all animals in all modes of transportation.

The abuses which the transportation industries, humane organizations, and many concerned citizens can attest to are plentiful. Hundreds of thousands of animals are transported annually. Many die simply for lack of proper recognition and attention. A few examples:

A champion borzoi died from suffocation on a flight from Chicago to a dog show in Los Angeles. (Consumer Reports, March, 1973).

Puppies shipped in shoe boxes (Reported by the Air Line Pilots Association).

A 10-month-old German Shepherd died from heat exhaustion at a Chicago airport (Akron Beacon Journal, April 8, 1973. p.c.1).

A dachshund died after his case was slammed from one bulkhead of the plane to the other. (Humane Society of the United States. "*Special Report on Shipping Animals by Air*." June 1973).

I need not continue to name individual cases. There are records, files, and lawsuits made by the private individuals, the humane societies, and the transportation industries themselves as true examples of the need for this legislation. In order to stop these obvious and shameful abuses of the animals in transit, Federal legislation is needed. The expanded provisions of H.R. 15843, to eliminate the exemptions from regulation which airlines and other common carriers now enjoy under the Animal Welfare Act of 1970, must be enacted. It is essential to provide by legislation the authority to regulate intermediate handlers where no authority has existed in the past.

We believe the proper authority to promulgate such regulations in this void should be granted to the Department of Agriculture.

An important item that I feel should be discussed at this point is the Department of Agriculture's interpretation of the exemption for farm animals include hunting and working dogs. According to testimony received by the Committee on Government Operations in their hearings in September 1973, hunting and working dogs are the most mistreated of the commercially bred dogs. We believe this legislation should make it clear to the Department of Agriculture that hunting and working dogs, as all other animals, should be included under this act.

However, the legislation and its legislative history must make clear that the Department of Agriculture must issue strong regulations, must enforce the regulations, and must be given the money and manpower to do so.

Mr. Chairman, I want to strongly urge that section 15 of H.R. 15843 be kept intact in the legislation to be enacted. This section provides for the regulation of shipments of livestock. No logic can be given for the exemption of livestock. Though they are taken to slaughter eventually to feed the meat-eating human and nonhuman creatures, there can be no denial that they too suffer when they are abused and mishandled.

There is a too widely held attitude of "what the hell, they are going to die soon anyway." This is not only callous but typically inhumane and is based on the attitude that nonhuman animals somehow are immune to such things as fear and pain in the same way and to the same extent as human animals.

Many people feel about animals like the Nazis did about the transportation of the Jews to the extermination camps. "They were sub-human and about to die, so what difference does it make?" They were literally loaded in cattle cars and transported for hundreds or even thousand of miles without adequate space, rest, heat, water, or food. This is essentially how livestock is transported to slaughter here. But consider the needless fear and pain. Friends of Animals and the Committee for Humane Legislation have been pushing for humane slaughter laws for years. We are equally concerned with the transportation of animals to the slaughter and we urge the Congress to pass as strong a bill as possible.

We heartily endorse the testimony of Mrs. Joan R. Blue and Mrs. Pearl M. Twyne as the authorities on the welfare of horses. Certainly the legislation being considered should include horses for whatever purpose they are used—slaughter, racing, breeding or individual recreation and pleasure. We commend Congressman McEwen for his introduction of H.R. 16070 which specifically concerns the welfare and treatment of horses. We recommend that standards be written into this legislation for the obvious necessities such as space, air, and water needed by the individual animal.

Motor carriers are now the principal transporters of these animals and certainly they should be liable for the animal's welfare while in their hands. It is shocking to think that a nation so regulated by Government has no Federal standards whatsoever for the transportation of the large animal, our horses and cattle. Although some States have laws prohibiting inhumane and cruel transportation of animals, rules and regulations must be promulgated and enforced to define inhumane and cruel treatment during transport. It is a sad commentary that a supposedly civilized nation must define by law "inhumane and cruel," but as evidenced by documentation, it appears to be necessary. It is the responsibility of our Government to establish these guidelines and standards to assure a better livelihood for our lesser creatures.

We strongly support section 10(b) of H.R. 15843, which requires, prior to shipping, a veterinarian's certificate that a particular animal is able to withstand the rigors of the trip without adverse effects.

We also endorse section 10(c)'s prohibition on shipment of dogs and cats and additional animals which the Secretary may designate, less than 8 weeks of age.

The certificate and the age requirement will guarantee that weak or unhealthy animals will not be subjected to the strains of travel.

We approve section 10(d)'s prohibition against arrangements under which the cost of the animal or the transportation is to be paid upon delivery by the consignee. No longer will consignees be able to send shipments back to the sender, with more suffering in store for the animals, with no cost or responsibility on the part of the consignee.

The Department of Agriculture will have a great opportunity to end animal suffering by formulating stringent requirements for the protection of animals in transit and we again urge them to do so. Besides those areas covered in section 9 of the bill, we suggest that noise levels be regulated, that separate compartments be provided for animals only, that airlines be required to accept greater liability for harm to animals, and that some provision be made for the care of animals which are for some reason refused at the end of their journeys.

We agree with the suggestions and recommendations that a minimum fine as well as a maximum fine for abuses be established.

By passage of this bill, the U.S. Congress will have taken a giant step toward establishing a universal attitude of humanitarian concern for all our fellow inhabitants of the Earth.

Thank you, Mr. Chairman.

Mr. FOLEY. Thank you, Mr. Fensterwald. I appreciate your suggestion; and in view of the pending legislation. I appreciate your sensitivity to our problems this morning with time.

Although I would prefer to hear all the statements in full, this will give us more of an opportunity to question witnesses.

The sessions of Congress during the last 2 weeks have been such that this hasn't been easy to do. If your schedules permit, I hope you can remain for questioning.

Mr. FENSTERWALD. I will try and I am fully aware that the staff will read the statement and the particular drafting suggestions without having to call them to the attention of the committee publicly.

Mr. FOLEY. Thank you very much. The next witness will be Dr. David R. Bromwell, staff veterinarian, Illinois Department of Agriculture.

**STATEMENT OF DAVID R. BROMWELL, STAFF VETERINARIAN,
ILLINOIS DEPARTMENT OF AGRICULTURE**

Mr. BROMWELL. Mr. Chairman, and members of the subcommittee: My name is David R. Bromwell. I am a veterinarian. I am employed by the Illinois Department of Agriculture. My duties include those of administrator for the Illinois Animal Welfare Act, the licensing act for those interests raising, servicing, and merchandising pet animals in our State.

I also administer the Illinois Humane Care for Animals Act, in which our department acts as the cooperating State agency performing in conjunction with the organized humane groups to promote and assure that a proper quality of care is being extended to the animal populations of our State.

I am also appearing on behalf of the two major feline registries of this Nation, the Cat Fanciers Association and the American Cat Fanciers Association—their interest being the indiscretions the transportation industry inflicts upon animals owned and shipped by their members for exhibition, sale, breeding, or companion purposes.

I would like to offer one word which should be the guiding influence in all statutes, rules or regulations promulgated on this subject—that word being responsibility.

This is possibly an oversimplification, but if all persons, businesses, and agencies involved exerted their fair share of responsibility there would be no necessity for further regulation, or even for those presently existing in our statutes.

To further elaborate on this point, without going into great detail, if the owners, breeders, food manufacturers, registries, veterinarians, brokers, transportation officials, and their industry, pet retailers, and the eventual owners of pet animals, all assumed their moral as well as actual physical responsibility, there would be no necessity for any Federal, State, or local legislation, nor even for the existence of humane organizations whose purpose is to promote proper care to animals.

History has shown the difficulty of legislating and achieving utopian conditions for animals or humans. With this in mind, it appears that any further regulation must include and demand implementation with sincerity by the agency or persons involved.

It further is imperative that it dictate clearly the course to be followed, complete with definite guidelines that those so directed must exert to obtain the necessary degree of responsibility sorely needed at the present time.

The act your committee is presently studying for possible amendment, the Animal Welfare Act of 1970, was definitely aimed in the

proper direction. However, as it exists, it either went 10 steps too far or should have gone 10 steps further.

It appropriately charged the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture with the day of administering the act. Included in their directive for administration was the responsibility to promulgate rules, regulations, and subsequent licensing of those involved in the raising, wholesaling, and dealing in pet animals on a commercial scale.

The licensing required inspection of premises, sanitation, records, health, and general care being extended to the animals by the licensee.

On the surface and by intent, this should have remedied many of the problems and conditions our pet animal populations faced, but what was not included was the demand for the close degree of cooperation so necessary with the various other entities and business interests involved.

A major weakness in the satisfactory implementation has been inadequate and occasionally inefficient personnel. It forced the agency to staff their inspection force with the utilization of persons previously assigned to other duties.

By reassignment, these persons were chosen irregardless of interest, knowledge, or even a willingness to learn, thus resulting in many mediocre performances of duty, such as is too frequently seen in Federal, State, or local governmental agencies.

The cold, hard fact is that the vocal condemnation and disgust by such personnel for assigned duty, even though stated privately, are most difficult to disguise or hide when performing inspectional obligations.

If a person so assigned dislikes the class or species of animal they are working with, their indifference is easily recognizable to the licensee or the person being regulated.

Another weakness is the vagueness of proper identification for animals included in this act and the need for a closer cooperation between the governmental forces and the various registries of the animals involved.

Most of the animals covered under this act affecting private citizens are purebred and registered, these being those eventually obtained and merchandised by the various pet shop interests throughout the Nation.

The final purchaser is too frequently being forced to suffer through the ordeal of obtaining proper certification from parties many States and transactions removed.

Why is it not possible to have a document on each specific animal which could be passed and kept with the animal at all times. This would give and afford definite information that might be referred to by the Federal force, the registries, the States and the eventual owner, to certify origin, along with any applicable facts they might find necessary.

There is another area which the amendment before you, found in section 10, has attempted to correct or improve, and that is the issuance of health certificates by veterinarians prior to shipment.

The obligation to issue such certification has always existed for interstate shipments of livestock, but if you could go one step further to insist that uniform entry qualifications and requirements be formu-

lated and adopted by all States, a major improvement would definitely be attained.

If there is no correction in the quality and genuineness of health certificates issued by members of my profession, there will never be an improvement in the overall situation.

Presently they do not attest to the health in most cases, and more appropriately should be classified simply as a document of movement, or better described as another of the useless requirements of bureaucracies.

A severe penalty provision should be included for the veterinarian violating this obligation and trust as there are veterinarians who, I am sorry to admit, willfully prostitute our proud profession by the sale of blank, signed certificates—the usual price being \$1 by the book or the individual copy.

This will require a coordinated cooperative effort by the various State officials and the U.S. Department of Agriculture, but when corrected would serve a most beneficial purpose to both the animal and the person receiving the shipment at destination.

Simply put, the animal should be examined by the veterinarian a short periods of time prior to being received by a commercial agency, and certificates issued with copies being forwarded to the appropriate regulatory agencies.

These documents should be legible, properly dated, and as such would further aid the transportation industry. It is most distressing to be advised that a health certificate on a puppy received in Chicago was issued 3 years previously for a coon hound destined for South Carolina. They should be encouraged to know what is to be included on this document, then by all means read them.

At the present time there is a large sector of the veterinary profession which is not included in any type regulation, with the exception of their individual State licensing requirement. Included in the absence of regulation is the issuance of interstate health certificates.

The only persons practicing veterinary medicine coming under the U.S. Department of Agriculture jurisdiction for the issuance of such a document are those having an accredited status, this relating primarily to those persons engaged in large animal practice performing tests and certain duties under general State-Federal cooperative supervision.

Thus, if difficulties are experienced regarding the validity and authenticity of such a document for these animals, the dog and the cat, cooperation has been generally absent between the various regulatory forces. You have my assurance that constructive regulation, even though burdensome for the busy practitioner, would receive nothing but praise from the ranks of the responsible elements of veterinary medicine, as we, too, abhor such blatant absence of professionalism.

Is it not possible that regulations be established specifically stating that an interstate health certificate be issued by a practicing veterinarian who has received an annual approval by the Federal regulatory agency?

This approval could be renewed annually automatically if the veterinarian had maintained accurate records and had performed the desired services in a thorough professional manner.

This approval could also be revoked or renewal refused after a formal hearing confirmed findings of unprofessional conduct in the

discharge of regulatory duty. Precedence has been established for such annual application from a Federal agency by the U.S. Department of the Treasury, Bureau of Narcotics and Dangerous Drugs.

The final deficiency that I will relate to you is by no means the least in importance, and that is to determine whose jurisdiction an animal comes under once it enters commerce. I am sure with the proper direction the Department of Agriculture, who presently has no jurisdiction over the shipment after it reaches the air terminal or shipping point, would welcome an answer.

The baggage areas within the terminals are not specially equipped in most cases to provide the necessary care and comfort the animal requires and should receive.

As an actual recent example, there is one Midwest air terminal where a lady employed by REA to operate a teletype machine, worked 31½ hours of an 8-hour working period watering animals awaiting shipment by an air carrier, the only available equipment being a Dairy Queen container.

This type action and dedication is surely to be congratulated but why aren't better receptacles and methods required to prevent the necessity for such an act?

Too often such shipments are treated like any inert type baggage, completely ignoring the fact that the shipment is a living being and as such should be entitled to some special consideration after being received into commerce.

I am sure you have heard and read previous testimony on this subject, but at one congressional hearing that I attended and testified, studying this topic, there appeared to be one uniform theme or statement from the testimony of various governmental forces who also testified. This was, "At this point in time we do not have the expertise," or "at this point in time we possibly have the expertise but do not have the obligation."

Really, members of the committee, someone within our bureaucratic system should have that responsibility, the knowledge, the interest, the direction, and the efficiency to perform a service to the animal being shipped or transported by commercial carriers.

If these changes and amendments are enacted to the Animal Welfare Act, I beg that you also provide for some professional skills, properly staffed, who will perform their duties with an interest, dedication, cooperation, and a true desire to perform a service for our animal populations and citizens alike.

If additional tariffs are required to obtain the necessary quality of care and attention for animals being transported by common carrier, it will be the desire of most responsible and interested citizens that they be included but performed with professional skill.

All that is asked is for realistic, reasonable care with compassion in the shipment of animals by commercial carriers.

We have foundered along on an uncharted course long enough. The time is now.

Mr. FOLEY. Thank you.

The next witness will be Phyllis Schultz, Public Information Specialist.

**STATEMENT OF PHYLLIS SCHULTZ, PUBLIC INFORMATION
SPECIALIST, REPRESENTING THE ATTORNEY GENERAL'S
OFFICE, STATE OF NEW YORK**

Ms. SCHULTZ. This hearing provides a welcome opportunity to speak out on an issue of animal protection which is of great concern to the people of New York State.

New York's Kennedy and LaGuardia Airports are major centers of animal transport activity. Pet shops throughout the Northeast receive shipments of animals which arrive daily at these airports from all over the country.

In addition, many of the major medical and pharmaceutical research laboratories in the Nation are located in the New York area and receive their shipments of research animals at these airports, as well.

On May 10 of this year, my office held a public hearing on the care and treatment of animals. The condition of animals during transportation was a major concern at this hearing, and time after time the witnesses eloquently described the inhumane manner in which animals are often treated while in the care of transportation companies.

The testimony at this hearing, which I will be pleased to furnish to this honorable committee, detailed cases of unprotected animals suffering from exposure to extremes of noise, heat and cold, as well as deprivation of food and water for prolonged periods of time.

As a result of a great number of these complaints reported to my office. I have intervened in the pending Civil Aeronautics Board proceeding, docket No. 26310, and tendered specific proposals to improve the care afforded animals in flight.

This bill, H.R. 15843, transcends that proceeding and offers a long-awaited means of imposing enlightened standards of care and humane treatment upon all commercial animal transportation in interstate commerce.

Legislation in this area has been sorely lacking. Complaints received by my office have asserted that in many instances airlines do not follow their own tariffs and those which do attempt to meet reasonable standards have prepared tariffs and operations manuals which are too vaguely written for a baggage handler to interpret and follow.

Clearly uniform standards of care are vitally necessary to insure safe passage for animals on all carriers.

The amendment of the Animal Welfare Act to include common carriers appears to be the most effective way to achieve comprehensive, universally applied standards of care for animals in transit.

The Secretary of Agriculture will be empowered by these amendments to promulgate standards of care to be met by all carriers. These standards should include specific restrictions on the size and type of container required for safe shipment of each type of animal, humane loading and unloading procedures, climate, and noise control within baggage compartments, feeding and watering requirements, as well as other necessities for proper care.

The tariffs of the International Air Transport Association, now followed on international flights, offer a source of enlightened standards which could be adapted by the Secretary for domestic use.

It is likely that a satisfactory travel environment for animals can only be accomplished through modifications of the aircraft themselves.

The Secretary's regulations, of course, would necessarily have to meet FAA safety specifications. The effort required in promulgating effective regulations which conform to FAA standards will be great. Much time and cooperation will be necessary to produce satisfactory standards, but the need to eliminate the current pain and even destruction now inflicted on animals in transit fully justifies this effort.

The problems—economic as well as humane—engendered by the callous disregard of the health of animals in transportation will never cease to exist unless we take on the responsibility of developing the solution today.

H.R. 15843 brings us much closer to the solution by bringing all common carriers within the regulatory jurisdiction of the Secretary of Agriculture.

The requirements of a health certificate and of a minimum acceptable age for transport of certain animals are also important steps toward the protection of animals in transit.

The prohibition of c.o.d. shipments of animals imposes greater responsibility on the consignee. Perhaps most important of all is the provision authorizing the Secretary to assess a civil penalty of up to \$1,000 for each violation of the statute or of the regulations adopted thereunder.

These provisions, if strictly enforced, will go far toward the achievement of safe, humane transportation conditions for animals. There are, however, various ways in which the provisions of this bill could—and should—be strengthened.

In section 2132 of the Animal Welfare Act, pet shops are excluded from the definitions of the terms "dealer" and "exhibitor," paragraphs f and h.

In recent years the pet industry has been characterized by business mergers, creating large chains of retail pet stores throughout the country.

Thus, far more than ever before, pet stores are transporting large quantities of animals from place to place. Pet shops certainly fit the statute's definition of being engaged in the distribution of animals to the public for compensation; they, too, should be regulated by the provisions of chapter 54 of the act and by the proposed amendments as well.

It is noteworthy that H.R. 1264 does propose the inclusion of pet stores in section 2132. The bill before us should, too.

The requirement of a health certificate issued by a licensed veterinarian prior to shipment, as specified in section 10, paragraph (b) of the bill, is a very important addition which would be made more effective if made more specific.

The bill should expressly provide that this health certificate must be issued no more than 3 days before the date of shipment.

This requirement would eliminate questions which might arise from the presently ambiguous language of the present bill requiring the veterinarian to certify only that the animal was in good health when so delivered to the shipper.

Amending the bill as we propose would insure that the certification be based on an examination recent enough to be meaningful.

Finally, section 10, paragraph (c), of the bill allows the Secretary to reduce the minimum age for shipment of dogs, cats, and other animals.

To insure the protection of very young animals, this paragraph should be amended to forbid the transportation of animals younger than 8 weeks, while authorizing the Secretary to prescribe a greater minimum age if he sees fit.

The opponents of this legislation have advanced no legitimate reason why the mistreatment or avoidable discomfort of animals in transit should be allowed to continue. Certainly our present level of technological and, I hope, moral development, as well as the enlightened self-interest of the industry, should bring us all to the realization that animals are living beings which must not be treated as excess baggage.

I strongly support H.R. 15843 as an important step toward a responsible, humane approach to the protection of animals in transit. Thank you.

Mr. FOLEY. Thank you, Ms. Schultz. We are very happy to have the statement of the Attorney General and appreciate your coming here on his behalf.

Ms. SCHULTZ. Thank you.

Mr. FOLEY. The next witness will be Duane Best, Air Line Pilots Association, Washington, D.C.

STATEMENT OF DUANE E. BEST, FIRST OFFICER, SPECIAL REPRESENTATIVE ON ANIMAL TRANSPORTATION, AIR LINE PILOTS ASSOCIATION

Mr. BEST. Mr. Chairman, and distinguished members of the committee:

I am First Officer Duane E. Best, special representative on animal transportation for the Air Line Pilots Association, and I very much appreciate this opportunity to appear before you today to speak in general support of the legislation proposed in H.R. 15843.

The Air Line Pilots Association currently represents approximately 46,000 pilots and flight attendants on 37 airlines. I am an active pilot with one of our major air carriers which serves over 130 of our Nation's cities.

The point I wish to make is that from the cockpit I have ample opportunity to observe how animals are handled by the airlines—and if I was troubled by what I have seen, I would not be here today.

There is an ample and growing body of evidence that animal shippers, freight forwarders, and air carriers are giving the creatures they transport less care and attention than they deserve in a society that has always been rightfully proud of its humanitarian instincts.

Since airline pilots and flight attendants are an integral part of the air transportation system, we feel there is definite need for us to step forward and make our voices heard in a plea to improve the current situation.

Last September, before the House Special Studies Subcommittee, I outlined seven basic goals that the Air Line Pilots Association wishes to see achieved.

In the interest of saving time I will mention them only briefly here, but, Mr. Chairman, I would appreciate the opportunity to introduce

into the record a supplementary statement about these goals and why they are important. They are from the record of the September 1973 hearings before the House Special Studies Subcommittee.

Mr. FOLEY. We will receive that for the file or the record as it seems appropriate.

[The supplementary statement is retained in the subcommittee files.]

Mr. BEST. It is our view that to achieve a more human environment for animals being transported by air, that: (1) The pilots should be informed whenever animals are boarded. (2) The operations manuals used by pilots should include some information about animals and where and how they should be loaded. (3) Stringent guidelines should be developed and enforced for animal shipping containers. (4) Special attention needs to be given to the containers and sizes of animals allowed to be carried in aircraft passenger cabins. (5) There must be continuous studies made of flight and ground environmental conditions. (6) Carriers must establish employee training programs for the ground personnel who must handle animal shipments; and (7) Documentation requirements, including health certification, must be greatly improved.

As you are probably aware, some of these points mentioned fall within the scope of issues now under discussion at the Civil Aeronautics Board on Docket No. 26310. We are pleased by this development.

However, it seems clear that the Department of Agriculture is the only logical Government agency with the expertise to develop standards, establish rules, and enforce those rules, which, of necessity and basic fairness to all parties concerned, will insure that those animals specified in this legislation are handled in a humane manner through the entirety of their journeys, both on land and in the air.

It also appears obvious that in order to do this the Department of Agriculture will need the full support, counsel, and cooperation of both the Federal Aviation Administration and the Civil Aeronautics Board.

It is imperative that we avoid having three different governmental bodies, each of which wields considerable power when they choose, establish three different sets of standards, or rules, about the proper way to transport animals.

The result would be a wilderness of bureaucratic redtape which would be a tragic mistake for the shipper, the air carrier, the forwarder, the enforcement personnel, and those of us who too frequently find ourselves in the position of helpless witnesses to inhumane acts.

It seems only reasonable and fair that the people served by our Government and who will be regulated by this proposed law be asked to operate from one set of rules.

A full and free exchange of information, and a willingness to compromise, will surely be required to all concerned, and particularly on the part of the USDA, the FAA, and the CAB, in order to accomplish these desirable humane goals.

The time has long since passed for further studies of the problem; for bureaucratic infighting and buckpassing; and for relying upon the shippers and air carriers to accept the responsibility for making these changes upon their own initiative.

I do not mean to imply that initiative has not been shown in some instances nor that no changes are ever made. It is just that there must be some leadership through legislation to pinpoint what must be done.

Then one can figure the cost of doing it and properly allocate those costs through an equitable rate structure so that companies in the transportation business do not lose money for transporting animals in compliance with whatever humane standards may be established.

As things now stand, the Department of Agriculture's jurisdiction stops at the airport boundary and no other Government agency has shown much willingness to become involved in establishing, let alone enforcing, any kind of humane standards. Other Federal agencies beg off by saying that this requires an expertise that they do not possess.

But that is very little help to those of us who witness on almost a daily basis abuses to animals while they are in the custody of airlines and freight forwarders. It certainly need not be this way.

We have heard in these hearings about how it would take approximately \$500,000 the first year for the Department of Agriculture to implement such a program. Others have talked about the increase in USDA enforcement personnel that implementation of H.R. 15843 would require.

I must question some of these figures, for I believe the total effect on the Department of Agriculture's Animal and Plant Health Inspection Service might prove to be quite different than they have estimated.

One thing we have learned is that since almost all animals transported in commerce, as defined in section 2 of H.R. 15843, travel by air, our airports become choke points with regard to enforcement.

I will wage that one inspector working at the airports in either Kansas City, Des Moines, or Omaha, can pinpoint more problems and regulations violations among animal dealers—who are already supposedly licensed—and carriers in a day's time than half a dozen field inspectors can find in a week. In a very small way we have already seen this demonstrated. Let me explain.

Since being drawn into the arena of animal transportation on behalf of the Air Line Pilots, I have received accreditation by the Fairfax Circuit Court of the Commonwealth of Virginia to act as a State humane officer. So, wearing two hats, I do conduct my own inspections of animals in transit.

I might say that my findings very closely parallel those grim tales that others have related to this committee. I have got a whole portfolio of horror stories of my own, but the committee is already well aware of the kinds of things that can and do happen, unfortunately, with a high frequency of repetition.

The point I wish to make is that when, during the course of my inspections, I find conditions that are substandard and documentation requirements that are ignored, I write some angry letters to the shippers with copies to the consignees and to those authorities, both State and Federal, who may have some jurisdiction.

In particular I send copies to the Department of Agriculture's animal care staff and the American Kennel Club's executive field agent in Cedar Rapids, Iowa.

When a commercial breeder or broker knows that his operation has been pinpointed as being substandard to those two agencies, one Government and one non-Government, which have authority to make inspections and audits of an operator's facilities, they don't like it. They have an effective grapevine and it doesn't take long for the word to spread.

In this chamber the other day I was told by one of the doctors on Dr. Mulhern's animal care staff that over recent months there has been an improvement in shipping standards which they feel is at least partially attributable to some of the caustic letters I have written.

Now if the doctor is correct, and we have no sure way of knowing, that writing letters from here in Washington can have a positive effect on raising shipping standards among breeders and brokers in Iowa, Kansas, and other States, then imagine how much more effective it would be to have a USDA inspector stationed right at the airport choke points at the major points of origin for animal shipments.

When faced with possible prosecution for noncompliance with USDA standards and regulations or when faced with potential monetary loss by having their American Kennel Club accreditation lifted, shippers have been known to put more effort into seeing that their animals are transported in a humane manner.

As things now stand, Department of Agriculture inspectors have no authority to act on violations to animal shipping standards found or known to occur at airports.

It is imperative, for the welfare of animals, that this situation be changed. How much easier it would be for all concerned, especially the animals, if the USDA did have jurisdiction.

Before this committee we have heard it argued that our present statutes are adequate and that it would be better for all concerned if we relied more on education and voluntary compliance with whatever standards may be established. We have heard that corrective action need not necessarily be legislative. Mr. Chairman, that is a theory that will maintain the status quo.

Education of those responsible for handling animals is an absolute must, and an ongoing requirement. I will quickly argue that many of the inhumane practices and acts that occur are the result of ignorance. These can be corrected by educational programs. But in order to get those education programs into being, it requires the electric prod of legislative action.

I do not know of anybody who enjoys initiating enforcement proceedings against another person or organization for mistreatment of animals. It is much easier to educate, and I might add that it is much more healthy and desirable from society's point of view.

However, we must have the legislative base for enforcement from which an effective education program can grow. Otherwise, there is just no incentive to build educational programs on the part of either responsible Government agencies or those in the private sector who have a stake in the matter. The pressure to cut corners which may increase profits is simply too great.

There are working regulations used by many of the carriers which are quite extensive. I have already made some of these available to the committee. Some of them are quite good and others are inadequate.

Some companies already have provisions to train their personnel with respect to these regulations, while others seem to expect their employees to absorb this information through osmosis.

I am not sure that any companies have provisions for an ongoing education and testing program for their employees beyond their initial exposure.

Once a legislative foundation is established, however, the incentive is then present to establish and maintain adequate educational pro-

grams for employees that will keep their companies out of trouble with the Department of Agriculture.

We pilots see this kind of corporate rationale at work every day because of the requirements levied on the air carriers through the regulations of the Federal Aviation Administration.

We are trained and retrained to the point where we can spit out a correct response to almost any job-related question an air carrier inspector can ask us.

We know that at least annually we must demonstrate our physical and mental abilities relative to all aspects of our job in the cockpit. No other profession is so tested.

The point is that air accidents have been made rare occurrences on the airlines, and I submit, similar education programs could soon be established in the animal care field if there is only some legislation that will start the ball rolling.

It is our view that H.R. 15843, for the most part, holds the promise of being that moving force that is so greatly needed.

Sometime around last Christmas, after I discovered a bunch of puppies, hamsters, and pigeons that had been in transit from 6 to 8 days, I asked USDA's animal care staff why it wasn't possible to obtain some enforcement action under what is commonly called the 28-hour law which was first enacted in 1906.

The language in that law, so it seemed to me, was sufficiently broad to cover the current situation because the law states that no express company or common carrier other than by water shall confine cattle, sheep, swine, or other animals for a period longer than 28 consecutive hours without providing them with the rest, water, and feeding for at least 5 consecutive hours.

It was very carefully explained to me that the Department of Agriculture's legal staff said that law could not be enforced because at the time that law was passed we did not have airplanes and trucks and therefore it was the sense of the Congress that this statute should be applicable only to rail travel.

I was told that what was needed, that what we must work for, was new legislation by Congress which specifically included animals transported by air carriers and motor freight before the U.S. Department of Agriculture could initiate an enforcement action against modern day express companies and common carriers.

Mr. FOLEY. If I might interrupt for a moment, the subcommittee must recess for a short time.

Mr. Bergland will be back in a few minutes and you can continue then. The ALPA should be commended for taking a strong interest in this matter, as well as for its past efforts in other problem areas such as air safety.

Mr. BEST. Thank you, Mr. Chairman.

Mr. FOLEY. The subcommittee will stand in recess.

[Brief recess.]

Mr. BERGLAND [presiding]. The subcommittee will come to order. I apologize for the delay.

Mr. BEST. You can imagine then, my disappointment the other day to hear the U.S. Department of Agriculture, before this committee, backpedaling away from a legislative approach to this problem.

Mr. Chairman, we feel strongly that the time is ripe for the Department of Agriculture to be given an updated sense of the Congress with respect to humane transportation standards for animals. For the most part, H.R. 15843 will do that nicely.

Others have addressed remarks to some of the specific language that possibly could be refined or clarified. I take this opportunity to comment on some specific points.

There has been some question about the scope of the proposed section 15 which would extend the USDA's authority to include livestock, a term only defined by exclusion from the terms found in section 2 of the 1970 act.

We would like to point out that this section would cover bulk loaded livestock—that is, calves, sheep, and swine—that are transported by air, frequently in international shipments, the record will show there have been instances of massive loss of livestock due to suffocation from overcrowding and excessive temperatures when using this mode of transportation.

In section 16(b) of the 1970 act, there is one word that should have been deleted, and certainly should not survive any 1974 revision of the act. That is the word "forcibly" which is used in the first sentence of section 16(b).

This one word has made a tough life for many Department of Agriculture inspectors working in the field. They can and are resited, opposed, impeded, intimidated, and interfered with—but never forcibly.

Proving, in an enforcement action, that these things were done forcibly, as the current law states must be done, is almost impossible.

At this point, I feel compelled to report that information has reached me that there is dissatisfaction among the ranks of the USDA's field inspectors because, done under the present law, their inspections of some very bad conditions seem to get pigeonholed once their reports reach Washington with no further action taken by the USDA against some very blatant violations of the act.

They feel that they are bearing the blame for nonenforcement of provisions in the act when the blame rightfully belongs elsewhere.

Mr. Chairman, an article this month in our association's magazine, the Air Line Pilot, has again drawn attention to our animal transportation problems.

As a result of this article I have been receiving long-distance phone calls and letters from airline pilots all over the Nation.

They indicate that they, too, have observed abuse and inhumane treatment of animals in transit and they have asked what they can personally do to help put a stop to it. These are men who, for the most part, are hunters and sportsmen.

They are asking me to tell them what they can do. Please, Mr. Chairman, help us in this task by providing us with leadership through a solid legislative foundation upon which can be built a program to establish and enforce humane animal transportation standards.

I thank you, Mr. Chairman, and I thank all of the committee members for hearing the airline pilots' plea.

Mr. BERGLAND. Thank you very much. We are especially grateful to you for bringing your expertise and counsel derived from many years of experience in your profession.

I am grateful to you for submitting specific proposals.

Our next witness is Mr. John Sohl, president, Autodriveaway Co., Chicago, Ill.

STATEMENT OF JOHN SOHL, PRESIDENT, AUTODRIVEAWAY CO., CHICAGO, ILL., ACCOMPANIED BY DAN JOHNSON, COUNSEL

Mr. SOHL. Mr. Chairman, I have with me Mr. Dan Johnson who is an attorney representing our company, a specialist in Interstate Commerce Commission law. I have asked him to accompany me to the hearing this morning.

Mr. BERGLAND. Mr. Johnson, we are delighted that you have come.

Mr. SOHL. I first got notice of this on Tuesday afternoon, and therefore, I have no prepared statement. I want to appear because we are the only actual carrier that has appeared at these hearings.

We transport animals. The legislation, as I see, is primarily directed to the airline industry, not to the trucking industry.

We feel that it is not necessary to involve the trucking industry for the simple reason that we are already regulated by the Interstate Commerce Commission and the Department of Transportation.

We feel that we do not need another bureaucracy telling us what we can or cannot do. We have two divisions. The first division is one of shipping pets and animals intended to be pets by motor freight.

So far, this year, we have made 74 shipments of which practically all of them were young pups, dogs, involving 2,400 animals, all of them less than 11 weeks old, anywhere from 5 to 11 weeks in age. Of those 2,400, we have had three deaths, less than one-tenth of 1 percent.

The three deaths were all blunt-nosed animals with small lung capacity. It is not the age of the animal as much as it is the type of animal that you are transporting.

Also, we are opposed to the age requirements because they will fluctuate depending upon the animal. It fluctuates even with dogs, much less concerning the age of a cat, a gerbil, or fish.

An 8-week-old limit is very unfair.

We transport these animals in vans which have heat in them, air conditioning, music; and music, surprisingly, keeps the animal a little quiet.

As soon as they get a little restless, we turn the music on and they become very quiet.

The van has a change of air in it six times every hour. When the van starts, it goes nonstop until the animals are delivered. We change crews and drivers en route.

Our customers are happy with our service. We made 382 shipments so far this year by air. We have not had a single loss of an animal by air. The animals—these shipments were made from five different offices stretching from Honolulu to New York. We have been doing air shipments for 5 years. We have had approximately three deaths in 5 years. Maybe it is because we take the animals to the airport just 2 hours before flight time. We pick him up within an hour after it arrives at destination.

It is not the carriers, we feel, that create most of the problems. It is the individuals who ship their own individual pet and don't take proper care.

Also, they are shipped in make-shift cases.

Your legislation will not affect the individual who takes his dog out to the airport in a broken-down crate. We are also opposed to the \$1,000 claim on animals for being excessive. The animal is worth anywhere from \$25 to \$200. Again, we believe that the abuse is primarily abuse by the individuals and not by the commercial carriers.

As I previously mentioned, we are regulated by the Interstate Commerce Commission and the Department of Transportation so that we have ample regulation.

We could make many specific comments on the proposed legislation. We haven't time to and there isn't time yet at this hearing. For example, recordkeeping, there is a clause in there about keeping the record as required by the Secretary of Agriculture and also by the previous owner.

How would we know who they would be when Mrs. Jones asks us to ship her dog to her daughter in Los Angeles? We have no idea who that previous owner would be or if there ever was a previous owner. This one clause could create havoc with our particular business.

Also, the recordkeeping could be mountains of paperwork being set up because the bureaucracy sets up some unreasonable length of time for keeping records.

In the ICC we have some record we have to keep perpetually. Even a bill of lading on which an animal is shipped has to be kept for 7 years. We have rooms full of records simply because the Government has said we have to keep them for a certain number of years.

If this legislation is required, we feel it should apply to the airline, No. 1.

No. 2, if legislation is required, then we feel the legislation should be through the Interstate Commerce Commission which already regulates us and which also is an arm of the Congress.

It is not a branch of the administrative branch of the Government.

These are the only comments I want to make now. I would like to be permitted to furnish a prepared statement as we have time to produce it because I have only had since Tuesday afternoon, notice on this.

Mr. BERGLAND. Mr. Sohl, the record will be open for about 10 days. Could you submit a statement prior to that time?

Mr. SOHL. I will be most happy to.

Mr. BERGLAND. Thank you.

(The statement had not been received at the time of printing.)

Mr. BERGLAND. Our last witness is Mr. Malcolm Ripley, president, Council for Livestock Protection, from New York.

STATEMENT OF MALCOLM P. RIPLEY, PRESIDENT, COUNCIL FOR LIVESTOCK PROTECTION, NEW YORK, N.Y.

Mr. RIPLEY. Mr. Chairman, and distinguished members of the committee, I would like to compliment you on holding these committee meetings because I think this is a terribly important subject.

My name is Malcolm P. Ripley. I am appearing today in my capacity as president of the Council for Livestock Protection, a national coalition which brings together the efforts and energies of many distinguished individuals and some of the country's most respected and influential institutions concerned with the well-being of animals.

The council's roster and board of directors include the names of many organizations whose representatives have spoken before you; among them the Humane Society of the United States, the Fund for Animals, and the American Humane Association. The Council for Livestock Protection is the focal point of their concerted efforts on behalf of the millions of forgotten animals whose ultimate destiny is to supply our tables with meat.

I speak not only as a citizen and an individual concerned about preventing cruelty to animals, but as a businessman. My role in the Council for Livestock Protection is a volunteer one. By profession I am a stockbroker—a senior partner in the Wall Street firm of Henderson, Harrison and Co.

In addition, I am an officer or director of four separate companies.

Thus, when I speak of cruelty and mistreatment to animals, I am not unaware of the complexities of the marketplace and the need for individuals and businesses to realize a fair gain for their efforts.

As an individual, I am involved in both the world of finance and that of philanthropy. This work not only embraces the protection of animals in which I hold, additionally, the post of president of the New York State Humane Association, a federation of local humane societies.

It also directly involves me in the serious problems of alleviating the sufferings of the elderly whose needs are—like those of the animals—all too often pushed into the background of our lives.

I believe I can speak for the goal of humane treatment for man and all of the creatures with whom he shares this earth, as well as about the practical aspects which, in the case for better care of our food animals, should motivate the most hardnosed businessman to consider kindness as a companion to profits.

By practicality, I am speaking in terms of dollars and cents. And I am speaking, in this age of food shortage—and famine—about food for people.

According to Livestock Conservation, Inc., a group concerned largely with health problems of the meat industry, we lose approximately 4 percent of our meat animals in the process of transportation to the slaughtering plants.

That figure may not seem high, gentleman. Put another way, however, it means that 4 animals out of every 100 destined for our Nation's dinner tables die before they reach the slaughter plant, and are therefore not considered fit for human consumption.

These estimates represent only the known losses from plants supervised by the Federal Government; Livestock Conservation, Inc. could only project the losses from animals destined for smaller packing plants.

Paul Zillman, spokesman for that organization, however, has stated that enough meat was wasted through transportation abuses to feed nearly 2 million people last year alone. If we are to carry this projection through to 1980, under the tables prepared for the 1972 study, "New Horizons for Veterinary Medicine"—the so-called "Terry Report"—and we would find that an additional nearly 3.6 million people could be fed on the meat lost through transportation losses.

Surely one look at the projections and studies of food supply and need the world over make this unthinkable, in terms of humans alone.

I am attaching a copy of appendix H of this study to my statement. I think you may find it interesting and disturbing reading.

But we are talking about business, and about dollars and cents. For a moment, let us discount the loss in meat protein—and the cruelty to the animals—and let us concentrate on the profit and loss columns.

Our dollars and cents losses on crippled and dead beef cattle average \$4,064,000 a year. Our dollars and cents losses on hogs average \$10,623,000 a year. The losses from calves, sheep, and lambs killed or maimed in transportation add another half million dollars to the total.

The total loss is an estimated \$15,188,000. And it is from transportation loss alone. It doesn't take into account the losses from animals which were bruised badly enough that their meat was downgraded at the plant. These were animals which were simply taken from the meat supply, largely because of inadequate protection for the living animals on their way to market.

These are economic losses. They are losses to our consumers—and they will represent added prices to those same consumers in the future. And they represent a shocking waste.

But to the Council for Livestock Protection, they are still not the primary concern. Wherever possible, we believe in working with the industries involved to protect the well-being of our food animals during their lives, and to assure them a painless death.

And the animals we have been talking about here did not just lie down and die. They died as a result all too often of carelessness and poor handling. They died as a result of overcrowding in trucks, as a result of falls on poorly designed, slippery loading ramps. They died from exposure to excess heat and cold. From being left too long in the sun without water.

In the preceding paragraphs, I have spoken only about those losses which can to some degree be documented. There are other losses, and cruelties, which none of us can as accurately measure.

We use the term "stress" when we talk about animals. We talk about fear or pain when we speak of human suffering. Even if animals don't die in overcrowded trucks, or suffer broken legs from descending or ascending too steep or slippery ramps, they can suffer the discomforts of dehydration, exposure to excessive heat or cold, or overcrowding.

Dehydration, in addition to causing discomfort, causes a loss in weight, and that causes a loss in profits to the buyer. Animals crowded into trucks too tightly become bruised. The bruised meat must be "trimmed" when the animal is slaughtered, and those pounds of meat are lost for human consumption.

The slipshod driving methods of poorly trained drivers unfamiliar with the requirements of hauling live cargo can cause bruising as well, with the inevitable economic loss of downgrading and "trimming out." And more meat labeled "unfit for human consumption."

We lose an estimated \$22,043,000 each year from bruises to beef cattle alone. And we lost \$22,330,000 in losses from hog bruises. The losses from dehydration are beyond estimate.

These are economic losses and we can at least estimate these. We cannot estimate the pain and fear these animals, which so directly serve our needs, suffer. The only situation within memory in which

human beings were subjected to conditions similar to those in which animals are placed daily have been so indelibly recorded in the writings of the survivors of the Nazi death camps that they need no repetition here.

They remain, however, the only human expressions of animal like suffering, and no tribute to man as a compassionate creature.

The concern of the Council for Livestock Protection is the welfare of all food animals. We believe that those animals which give their lives to supply us with food deserve good and gentle handling throughout their lives, at the end of which they will be sacrificed for our well-being.

It is my belief, and that of the Council I am here representing that they should receive the best of care, even if no economic factors dictated such treatment. Nevertheless, the losses of needed food in a time of shortage, and when food producers are themselves concerned about efficiency and profitability only serve to give the need for solving the problems of animal transportation a more needed impetus.

The passage of H.R. 15843 will do much to alleviate the suffering of animals transported by truck, bringing that industry into conformance with the standards imposed on railroads in 1906.

It is only fitting that the food industry, which is regulated in nearly every other sphere, should have the same regulation where the well-being of the animal in transit is at stake. If, as has often been stated, only an estimated 20 percent of the trucking firms now transporting livestock are guilty of mistreatment, this legislation should have the wholehearted endorsement of the trucking industry and its responsible leaders.

If, however, as has been indicated in previous testimony, in response to other legislation, specifically that of the American National Cattlemen's Association in consideration of legislation introduced in 1972, that there is a 25 percent owner-driver turnover per year and that these high-risk drivers with poor safety records are considered insurance problems by insurance companies, then the regulations become even more important and must be imposed over their opposition.

We hold no prejudice for or against truckers. We ask their support but would support that is the interests of humaneness and economy this will be considered seriously even if that support is not forthcoming.

The Council for Livestock Protection, and its constituents, strongly urge the passage of H.R. 15843, and will, upon its passage, be happy to supply such information regarding implementation of regulations to the Secretary and to the appropriate regulatory committees as may be desired.

I can leave only with one consideration from the Bible. I think it is a fitting one for all of us to consider, whether we be producers of animals for food, or consumers, whether our motives be those of concern with cruelty or consumerism, "the righteous man regardeth his beast."

I submit, Mr. Chairman, that this is good advice for all of us. Thank you, Mr. Chairman.

[A copy of the pamphlet "Safeguarding Livestock" is retained in the committee files. Appendix H referred to by Mr. Ripley follows:]

APPENDIX H

PROJECTIONS TO 1980

VETERINARIANS ENGAGED IN FOOD ANIMAL PRACTICE

Factors considered

1. The human population of the United States is expected to increase from about 207 million in 1970 to about 239 million in 1980 (U.S. Bureau of the Census, 1969).

2. The consumer disposable income is expected to increase at a rate of about 5 percent per year through 1980 (Seaborg, 1969).

3. The amount of pork consumed per capita is expected to decrease from about 63 pounds in 1970 to 58 pounds in 1980 (Ives, 1969).

4. The amount of beef consumed per capita is expected to increase about 12.7 percent from approximately 110 pounds in 1970 to 124 pounds in 1980 (Seaborg, 1969).

5. Synthetic meat substitutes are not expected to have a measurable effect on meat consumption by 1980 (Seaborg, 1969).

6. The amount of pork produced is expected to increase about 3 percent from approximately 91 million in 1970 (U.S. Department of Agriculture, 1970) to 107 million in 1980 (Seaborg, 1969).

7. The yield of pork per long slaughtered is expected to increase about 2 percent between 1970 and 1980 (Ives, 1969).

8. The beef cattle population is expected to increase about 17.6 percent from approximately 91 million in 1970 (U.S. Department of Agriculture, 1970) to 107 million in 1980 (Seaborg, 1969).

9. The number of cattle slaughtered is expected to increase about 19 percent, from approximately 43 million animals in 1970 to 51 million animals in 1980 (Ives, 1969).

10. The percentage of hogs and beef cattle maintained in lots of 1,000 head or more is expected to increase greatly (Helming, 1969, unpublished communication; Ives, 1969).

11. The daily cattle population is expected to decrease about 23.5 percent, from approximately 21 million in 1970 (U.S. Department of Agriculture, 1970) to 16 million in 1980 (Seaborg, 1969).

12. Food animal practitioners are expected to increase the depth of services they provide (see text).

13. Food animal practitioners are expected to increase their utilization of paramedical personnel (see text).

Mr. BERGLAND. Thank you very much, Mr. Ripley. Now, if all of those persons who testified will return to the witness table, we will question you en bloc. Chairman Foley?

Mr. FOLEY. Mr. Sohl, you mentioned that you are regulated by both the Interstate Commerce Commission and the Department of Transportation. Do they provide specific regulations for the transportation of animals for your company?

Mr. SOHL. They do not have any specific regulation on animals. They have regulations that we have to live by which are the standard ones that the trucking industry has to abide by.

Mr. FOLEY. Are those just to give you an operator's certificate?

Mr. SOHL. An operator's certificate, but the certificate is a certificate of convenience and necessity. It means that our certificate is subject to revocation at any time if you do not furnish satisfactory service, and if there are complaints filed with the Commission, then a proceeding for revocation of certificate would be instituted.

Mr. FOLEY. The Interstate Commerce Commission focuses on tariff regulation and on whether there is a need, for the public convenience and necessity, to provide a certain type of transportation. Is that correct?

Mr. SOHL. That is one side of it. The other side is that you have to furnish satisfactory service. If people complain about the type of service you are furnishing, if we were taking and delivering animals and they were arriving dead or emaciated, then there would be instituted proceedings immediately for revocation of certificate.

Mr. FOLEY. Have you ever been inspected especially for the kind of care, which I assume is good, provided animals by the Interstate Commerce Commission?

Mr. SOHL. No, not yet. We do expect it. We normally get inspection about every 2 or 3 years by the Commission.

Mr. FOLEY. It is a matter of concern that we do not create an imbalance of requirements among different modes of transportation. The reason for our concern about applying humane handling standards only to airlines is that we don't wish to encourage competitive disadvantages in terms of animal transportation.

You mentioned, for example, the volume of shipment loss that would result from the new age requirement. The bill does allow the Secretary discretion in this area. If the airlines were required not to accept animals at certain ages and the ICC didn't make such a regulation, it would increase movements by surface for animals of an unestablished age.

Mr. SOHL. Yes, the 8-week age is erroneous. Some can be shipped at 5 weeks and some not until 11 weeks. What about cats and gerbils?

Mr. FOLEY. The bill says that:

(c) No dogs or cats, or additional kinds or classes of animals designated by regulation of the Secretary, shall be delivered by any person to any intermediate handler or common carrier for transportation in commerce if they are less than 8 weeks of age, or such other age as the Secretary may by regulation prescribe.

The Secretary shall designate additional kinds and classes of animals and may prescribe ages different than 8 weeks for particular kinds or classes of dogs, cats, or designated animals, for the purposes of this section, when he determines that such action is necessary or adequate to assure their humane treatment in connection with their transportation in commerce.

He can extend the age, reduce it, or change the age requirements for different species of dogs, cats, or other animals if he wishes to.

There is nothing in the bill, as I read it, that sets a mandatory, inflexible age. I am not quarreling with your point, I think it is a good one. We can't fix an absolute age for every class and animal. The 8-week suggestion here is just a guideline.

Does anybody disagree with that?

Mr. Meyers?

Mr. MEYERS. By creating an 8-week standard per se, you are putting the Department of Agriculture in the position of always having to justify why they have deviated from the statutory period.

This may be advisable. That they have to have a standard at least to look toward. We do not read that you have emasculated the Department of Agriculture's authority to prescribe differing standards with the exception of possibly dogs or cats?

Mr. FOLEY. The section requiring the Department to take some action. If not, the 8 weeks will apply.

The purpose is to prod the Department of Agriculture to make judgments rather than to force any 8-week standard on the Department. It is designed merely to give the Secretary the necessary legislative impetus.

That is what it is in the bill for, not to make it an inflexible standard.

Mr. SOHL. Mr. Foley, might I make a comment on that? It might be more acceptable if it were eliminated, the 8-week clause, and it would be set up according to rulemaking.

Again, you could get into a bureaucracy which could be a hassle and it will take 6 months before they decide what age limit they want to set for each particular animal. When you are dealing with a Government agency, when an 8-week limit is set in, they are prone to live with it or to say "Yes, but." Maybe a rulemaking at the beginning of this would be the answer.

Mr. FOLEY. That is a suggestion we should consider. We may allow some time for the implementation of these rules. The problem occasionally occurs, that, unless there is some pressure for regulations to deal with a certain problem area, there is little action. These provisions are basically added to prompt some action and study on the question.

Mr. SOHL. Maybe it should read: When the animal has been weaned. That is basically what is used today.

Mr. FOLEY. There should be some flexibility left to the Secretary to make judgments based on specific decisions. I would be a little reluctant to set an inflexible legislative standard.

For most species of dogs, an 8-week standard, according to some authorities, is, perhaps a good guideline; but it can vary greatly among animals.

Mr. MEYERS. We would urge that the committee consider with respect to the age standard and veterinarian's certificates that they would be delegated the authority to promulgate that those requirements have to go into a carrier's tariff.

Now, there could be some discretion. The Civil Aeronautics Board is saying they have to go into their tariffs because that is the way they interpret their tariff regulations.

The ICC tariff regulations are not the same. I think maybe the committee ought to consider stating that when these regulations have been promulgated, they must become a part of official carrier tariffs.

Mr. FOLEY. As I mentioned yesterday, I think there are some obvious advantages to cooperative action between the ICC and CAB. We have some problems in terms of jurisdiction in this committee, which I think counsel recognizes. We hope that if this legislation passes, the Interagency Committee will function to bring into the tariff structure any standards that are set by the Department of Agriculture.

As witnesses have pointed out, there is a rather elaborate enforcement system by the ICC in terms of tariffs. Therefore it is felt that if these standards are made part of the tariffs, they will undoubtedly have additional enforcement.

Ms. Schultz or Ms. Forkan, which of you testified earlier regarding the separate cargo compartments on airplanes?

Ms. FORKAN. I did.

Mr. FOLEY. There seems to be some indication that the latest designs of new aircraft are going to include air-conditioned compartments with temperature control.

If there are requirements put on the shipment of animals, I think we are going to see the aircraft manufacturers selling their products on the basis of their ability to carry this sort of cargo.

Ms. FORKAN. I was actually referring to the ground procedure, what they hold the animal in while they are waiting to load and unload the aircraft, not specifically to the cargo area.

It would be attached to the baggage trucks—they have several pieces that go along behind, and I just thought this could be an individualized unit. You could fit the animal cargo more easily, unload and load and unload at better times and that they would be protected from the noise and extremes of weather and they could be taken as a unit, then, in and out.

That is what I had in mind, rather than actual movement on the ground.

Mr. BERGLAND. Mr. Price, do you have any questions?

Mr. PRICE. Yes; I would like to ask some questions.

Mr. Ripley, I am sorry I was late. I was meeting with constituents, but I have read your testimony and I am particularly interested in this section of your bill which has to do with livestock.

I have been a rancher and I have been to livestock troughs and livestock auctions. I don't see under this bill, as it now reads, how it would bring under jurisdiction all livestock trucks and probably trains that carry livestock. We got into horses a little bit yesterday.

I might ask you: Have you ever handled any livestock, Mr. Ripley?

Mr. RIPLEY. Yes, I have. I have driven a horse van for quite a few miles with variable shoe horses. I am acquainted that one—if they wish to treat the horse nicely—might drive with extreme caution as well as see that they are watered. It is a good idea to stop.

I, frankly, can go for so many hours and like to stop myself and, at that time, I like to water the horses and make sure they have plenty of hay with them.

Mr. PRICE. Are you familiar with the trucking of livestock, primary calves, and yearlings from one part of the country to the other that is going on today in the livestock industry?

Mr. RIPLEY. I have read quite a few reports and had quite a few briefings on them.

Mr. PRICE. Have you witnessed it yourself?

Mr. RIPLEY. No.

Mr. PRICE. Have you ever witnessed the loading of 500 head of cattle into trucks?

Mr. RIPLEY. No; I have not, Mr. Price.

Mr. PRICE. Do you think your suggestion about our being able to police every loading ramp or loading chute a livestock owner has throughout the country is practical?

Mr. RIPLEY. No; I don't think you have to police every one, but I should think most truckers would be terribly happy to cut down on approximately the 4-percent loss. I have been in business for 30 years now.

I am completely regulated as a partner in a stock exchange brokerage firm. I don't find being regulated is that difficult to live with.

Mr. PRICE. I think this would put every trucker in the livestock trucking business out of business overnight. Have you ever seen an animal mad or executed?

Mr. RIPLEY. Yes, sir.

Mr. PRICE. Did you ever try to handle one in a chute or cattle pens?

Mr. RIPLEY. I have seen one come out of a horse van rapidly.

Mr. PRICE. How are you suggesting that we handle the temper, when you are handling 400 or 500 cattle in cattle chutes? Have you ever seen them dehorn an animal?

Mr. RIPLEY. I have.

Mr. PRICE. Have you ever seen them cut their ears off for identification?

Mr. RIPLEY. I have.

Mr. PRICE. Have you seen them castrated?

Mr. RIPLEY. I have.

Mr. PRICE. Do you think the methods being used in this area are inhumane?

Mr. RIPLEY. Yes, sir; I do.

Mr. PRICE. How would you suggest any other way that they might be handled?

Mr. RIPLEY. Cattle can be bred without horns. This has been started.

Mr. PRICE. Yes; I know.

Mr. RIPLEY. Also, Mr. Price, I understand from what information I have, that a bull is sold for less than a steer, but actually the meat has less fat on it than a steer does and it is quite acceptable meat, though it is marked down for price of sale.

Mr. PRICE. I would like to invite you out to the Texas Panhandle to see what is going on in the animal world. We handled 5 million cattle in our district.

The suggestions you make are so far off base, they would laugh you out of the country in my part of Texas because there is just no way that you can handle livestock through a set of corrals, dehorn them, doing what you have to do to them without the stress and without the excitement and running into fences.

I have seen them run into fences and charge you and everything else. I am for taking care of them, but I think some of the things that you have mentioned shows your naivete with regard to your handling livestock.

Mr. RIPLEY. I should note that I am not executive director of this organization. I do it on a volunteer basis. I am not paid. I have to make my living as a stockbroker and if one has been reading the financial pages, one finds that we are in serious problems in this country on the economic front.

I have tried to gain the information I could by reading. I have handled horses and know considerably, quite a bit about horses. I have handled some awfully good show horses. I have ridden in the back of a van. I have seen how horses travel, but I think a 4-percent loss factor as a businessman could be cut.

I am sorry, I would not stand for a 4-percent loss factor which could be pinned down in any business that I was associated with. This is just purely me speaking as a businessman. That loss factor could be a great deal higher if you consider the bruising of the meat of these livestock and how much is trimmed off in the slaughterhouse.

Mr. PRICE. I might say that the practicalities are that the person most generally who handles what I would call purebred or highbred horses, and you are talking about separating them out in trucks—that man can afford it—99 percent of the people in this country can't afford to find a van and can't afford a padded side and can't afford all the things you are talking about.

This is for the horse set, for people who can afford it. I would really like to invite you out to my part of the country to see what is going on in the cattle industries. How are you going to regulate the temperature in these cattle trucks which cost \$30,000 just for a pot; they call that the double-deck pot?

I have had cattle in Staunton, Va., and sent them to the panhandle in 10° weather and below, bringing snow through the truck cracks. When they get there, half of them are sick. I would like to cut that down. Probably the losses in the panhandle last winter amounted to probably 100,000 or 200,000 head from pneumonia.

Mr. RIPLEY. I can believe it.

Mr. PRICE. I am a businessman like yourself. If we have a 2-percent death loss, we feel we get along pretty good. That was a 10-percent death loss. I don't see how you can regulate bruises on an animal.

You have got a lot of guys pretty rough on livestock. I don't think you can regulate the guy they stick up there in the truck who drives 32 hours before he has to unload and feed and water them.

Mr. RIPLEY. I would like to bring up some suggestions and, basically, I would like to develop these more, but I just scribbled out a few ideas.

There ought to be a course of training for drivers. I think they ought to, one, have a knowledge of driving. This almost goes without saying. You well recognize in driving any type of truck, if you have got livestock on it, you don't go zooming around the corner as though you are a sports car driver.

You should take it easy. You should be careful in starting and stopping and all that. Anybody who has driven livestock should know this.

The other thing is that I think your drivers should have a basic knowledge of animals and that they should understand when they get in trouble with animals, if they have got an animal that doesn't look well. They should know about it. They should be able to cope with it.

I think, also, the trucks should be stopped to water the animals. I think that trucks really ought to have a system in them where a hose could be plugged in while they are picking up fuel, and they could water the horses.

I think we ought to have looser schedules for departure and arrivals. This is part of the thing that should be done in the industry. Of course, there should be sufficient hay available for the livestock for the length of the trip.

There should be strict regulations for truck construction. The floors should not be slippery. They can be made with little ridges and a type of construction—the double-decker should be strong enough so that they don't come tumbling down on top of the animals underneath and, sometimes, maybe less of a load, if they are going for a long trip would be more practical and you would have less dead animals or crippled animals when you arrived.

There ought to be a comprehensive manual for interstate shipment of animals. I think that these points could help a great deal, but I think 4-percent loss factor is terribly high, sir.

Mr. PRICE. Yes, I agree; it is awfully high. We would like to invite you into the livestock industry to take a look. You talk about a driver. Most of these people try to hire a driver who has an interest.

In fact, the men that I know have tried to get drivers that know something about animals, but they are just not available. You are talking about thousands of trucks available. A lot of the guys driving cattle just keep on driving.

You say you don't want to use an electric prod pole. How will you get the cattle in there and get him up?

Mr. RIPLEY. I never said you shouldn't use an electric prod.

Mr. PRICE. No, but a lot of them have indicated that.

I see there is a bell, gentlemen. Thank you.

Mr. SOHL. There have been a couple of comments made here which are some of the conflicts in this legislation. For example, Mr. Ripley suggested that the floors should not be slippery.

The two vans that we have are completely laminated with plastic all the way around; it is sprayed on. There are no seams. The floor is the same as the wall and ceilings. The reason for that is that we steam-clean that truck after every trip.

We can't have cracks where germs can get into it. You are transporting young dogs and you have got to keep the truck as clean as a hospital. Ridges on the floor would completely obliterate it.

Mr. FOLEY. I recognize the inevitability of disagreements on how specific legislation should be drafted. The legislation before us aims at establishing some authority under which to set standards for animal handling.

We are not attempting, in this bill, to be specific. Mr. Ripley's suggestions were made only in response to questions by Mr. Price, but the legislation itself will not attempt to precisely delineate what the standards will be.

We can't be that specific. We have neither the competence nor the expertise to make those decisions. They must be made by the Secretary, by the ICC, by the CAB, or some appropriate regulatory authority. I am sorry, we have a rollcall vote on the floor.

Before leaving, I want to again express the appreciation of the subcommittee for all the witnesses who have testified. These have been some of the more extensive hearings we have had and will continue next week.

I am confident that when this record is printed we will have a very comprehensive statement on the feelings and attitudes of a variety of different groups, institutions, and individuals concerning animal transportation.

I would like to thank all the witnesses very sincerely on behalf of the subcommittee for coming and testifying today. I realize that many of you have done it at some personal inconvenience and expense.

The subcommittee will stand adjourned and meet at the call of the Chair.

[Whereupon, at 12:15 p.m., the subcommittee recessed, to reconvene subject to the call of the Chair.]

ANIMAL WELFARE ACT AMENDMENTS OF 1974

TUESDAY, AUGUST 20, 1974

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON LIVESTOCK AND GRAINS
OF THE COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:07 a.m., in room 1301, Longworth House Office Building, Hon. Thomas S. Foley (chairman of the subcommittee) presiding.

Present: Representatives Foley, Zwach, Price, and Sebelius.

Steve Pringle, staff assistant; L. T. Easley, press assistant; and Perry Shaw, staff assistant.

Mr. FOLEY. The Subcommittee on Livestock and Grains will come to order.

The subcommittee meets this morning for further consideration of H.R. 15843, Animal Welfare Act amendments and related bills.

The first witness this morning will be Mr. Chuck Cummings, secretary of the Maryland Association of the Pet Industry, and president, Columbia Pet World, Columbia, Md.

I might say off the record.

[Discussion off the record.]

STATEMENT OF CHARLES M. CUMMINGS, SR., SECRETARY, MARYLAND ASSOCIATION OF THE PET INDUSTRY, INC., AND PRESIDENT, COLUMBIA PET WORLD, INC.

Mr. CUMMINGS. Mr. Chairman, my name is Charles M. Cummings, Sr. I am secretary of the Maryland Association of the Pet Industry, Inc. president of Columbia Pet World, Inc., and the senior partner of Cummings and Elliot Farms in Meade County, Kans.

The Maryland Association of the Pet Industry is a trade association of retail pet shops and wholesalers. The association is a member of the Pet Industry Joint Advisory Council. We are here to express our agreement with the objectives of H.R. 15843 and H.R. 1264.

In order not to be repetitious of the other pet industry witnesses, I will limit my comments to the issue of licensing retail facilities. I would like to acquaint this committee with what it means to have a pet shop federally licensed under the Department of Agriculture regulations under the Animal Welfare Act of 1970.

Under the act it is stated that retail stores are exempt from the act if they do not sell any animals to a research facility, an exhibitor, or a dealer.

The Department of Agriculture interpreted this when they promulgated their regulations to mean that a pet shop may only sell dogs,

cats, gerbils, hamsters, rabbits, guinea pigs, et cetera, without obtaining a Federal license. The Department, in its regulations defined a retail pet store to include the sale of pets but then stated that species from the wild—primates, anteaters, and ocelots, for example—were not pets. Thus, persons selling such species must obtain a Federal license.

Columbia Pet World was the first federally licensed pet shop in the State of Maryland. When the Animal Welfare Act came into effect, Columbia Pet World owned a 2-year-old chimpanzee which neither was for sale, nor was there a charge for viewing the animal. We did have an assortment of monkeys that were for sale. In questioning the Department of Agriculture on the requirements for a Federal license, I asked that if I no longer sold any animals not on the USDA clean list would I be required to have a Federal license? The answer was "yes," because I would still have the chimpanzee on my premises. Along with the Federal licensing comes detailed record-keeping, which is applicable to breeder, broker, and retail outlet. There is no distinction in the records to be maintained, even though the functions are considerably different.

The reason for the detailed recordkeeping, I was told by the Department of Agriculture, was that there were no special provisions in the Animal Welfare Act explaining how to regulate pet shops which were not exempt. We were required to keep the same records that a distributor has to maintain on lot shipments of animals.

I was inspected every 3 weeks for 1 year by a USDA inspector, who checked the cleanliness, health, caging, and appearance of all livestock. This license and inspection gave me a slight competitive advantage, for I could say that I was a federally inspected shop.

But let me relate to you why Columbia Pet World, the first federally licensed pet shop in Maryland, gave up its license after the first year. The first year my license cost me \$5. Upon applying for renewal of the license, I was dismayed to learn that the license fee would then be based on a percentage of my gross volume of business in all warm-blooded fur-bearing livestock. Based on the gross volume of business in my dog department alone, my fee was to be the maximum of \$750. Gentlemen, this would mean that I would have to sell in excess of \$2,000 worth of so-called exotic animals just to justify the cost of the license which would permit me to sell exotic animals.

I then decided to sell only animals on the USDA clean list and dispose of my chimpanzee. As I stated previously, the chimpanzee was not for sale; I donated it to the Baltimore Zoo.

However, this is not the end of the study. A few months after I gave the chimpanzee away, the USDA changed the ruling that a pet shop need not have a Federal license to keep an animal not on the USDA clean list. If that animal was neither for sale, nor for viewing for a fee, that animal was now an exempt animal and there was no need for a Federal license. We were informed that the Department of Agriculture had determined that it was not the intent of Congress to require a Federal license for such activities.

Gentlemen, the point of my testimony is in the words "intent of Congress." I do not believe that the intent of Congress when passing the Animal Welfare Act of 1970, was to virtually stop the sale of so-called exotic animals, nor put an economic burden on the pet shops in the way of excessive fees as levied by USDA.

This is a fundamental inequity in the interpretation of the act whereby an aquarium shop can sell so-called exotic animals for a small Federal license fee because their gross dollar volume of warmblooded, fur-bearing animals is limited in comparison with a full-line pet shop which sells dogs and cats which obviously create higher gross dollar volumes.

I believe that it is important to have some type of guidelines either in the amendments to the act or in the committee's report which clearly sets forth what the intent of Congress is. I hope that the intent of Congress is this amendment is the welfare of the animal more than a revenue-producing bill that gives the U.S. Department of Agriculture a bureaucratic paper shuffling paradise. We recognize the need for licensing; we recognize the need for recordkeeping and record-retention. We urge that the Department of Agriculture be given explicit direction.

Thank you.

Mr. FOLEY. Thank you very much, Mr. Cummings. If you can remain, we would like to call you back for questioning after all witnesses.

The next witness will be Mr. Edward J. Driscoll, president of the National Air Carrier Association, Washington, D.C., accompanied by Mr. Jim Anderson, manager, Livestock Airlift Sales, Trans International Airlines.

STATEMENT OF RALPH DITANO, VICE PRESIDENT, NATIONAL AIR CARRIER ASSOCIATION; ACCOMPANIED BY H. JAMES ANDERSON, MANAGER, LIVESTOCK AIRLIFT SALES, TRANS INTERNATIONAL AIRLINES; AND CHARLES C. ABELES, ATTORNEY FOR NATIONAL AIR CARRIER ASSOCIATION

Mr. DITANO. Thank you, Mr. Chairman.

My name is Ralph Ditano. I am vice president of the National Air Carrier Association and I am appearing to present the statement of the association's president, Edward J. Driscoll, who regrets that he is unable to be here this morning.

I am accompanied by an additional witness, Mr. H. James Anderson, manager, Livestock Airlift Sales for Trans International Airlines, a member of my association, and Charles C. Abeles, counsel for the association.

Prior to presenting the association's statement which is concerned not with the movement of laboratory animals and pets but rather the bill's applicability to the movement of livestock, I thought it might be helpful if the procedures used by a charter airline in the transportation of livestock were outlined by Mr. Anderson.

I would like to request that Mr. Anderson precede me and that an outline of the manner in which livestock is handled be included in the record.

Mr. ANDERSON. Mr. Chairman, my name is James Anderson. I am a fourth generation rancher in northern California. I have been a livestock broker. I am now director of the California Livestock Symposium and have been in agriculture all of my life.

Our experience at Trans International Airlines in the movement of livestock is that we have over the past 4 years moved over 50,000 head of livestock, basically on DC-8 stretched airplanes. We have gone in

and out of approximately 32 countries and we are mainly concerned with large animal agriculture, that being horses and the movement of livestock.

The procedures that we go through in the movement of livestock contain two basic obligations: (1) That we move the aircraft as quickly as possible and by doing that we would employ all of the primary objectives of the best humane practices combined with the best animal husbandry techniques. Also, that should better utilize the aircraft, a very expensive airplane, as we would be moving approximately 100,000 pounds of livestock.

In our techniques in moving livestock, as you can see by some of these photographs, we would coordinate the livestock from the time that they were isolated in a domestic operation. In moving livestock from Oakland, Calif., to the Hawaiian Islands, we would coordinate those livestock after they were properly identified on a ranch in the San Joaquin Valley. A State veterinarian would inspect those livestock and we would coordinate the loading of the livestock in trucks so that they could be off-loaded, walked on, or put in a pallet-type operation and immediately put on an aircraft.

At the time of the initial coordination we would be looking at all of the documentation. We would not allow the livestock to leave an isolation area—which would be the initial movement of the livestock—until all this documentation was correct. At that point in time we would coordinate as swiftly as possible the movement onto the aircraft and then the utilization of the airplane would take place. We would move as fast as we could to the point of destination and at the same time that we were making this initial coordination from the point of origin, we would have our own people at the point of destination—passenger service representatives and livestock people—to make sure that the trucks are available at the aircraft when it arrives and to see that those livestock are off-loaded and moved to the quarantine station or ranch and that they are put through as little stress as possible.

We have moved many thousands of head of 95-pound dropped calves which were from 3 to 14 days of age. We moved 835 from Montevideo, Uruguay, to Milan, Italy, in 17 hours. We are looking at a zero death loss in this type of operation with 2-percent shrinkage from the time that they are loaded on the trucks at Montevideo until they were off-loaded and weighed again in Milan, Italy, which we think to be reasonable.

We have been measuring and working with the Agricultural Department, with the Plant and Health Inspection Service, in an attempt to get as much information as possible and at the present time we will be initially working in a cooperative effort between the Animal and Plant Health Inspection Service, the chief veterinarians in particular, Dr. Herrick and Dr. Langridge, and we will offer to them our cooperative efforts, and will hire a man from the California Extension Service to go into the necessary details such as stress, humidity, and any other factors that the Animal and Plant Health Inspection Service deem necessary.

In that program we will attempt to come up with reasonable answers as to practical and humane guidelines for the movement of livestock by air. At the present time, the only bulletin we have available is

"Environmental Considerations for Shipment of Livestock by Air Freight," which was printed in May of 1974. This does not tell us enough as to the many problems in the movement of worldwide livestock.

We expect to see a great deal more movement of livestock by air as it is a perfect operation for a supplemental carrier—a charter operator—because you can fully and completely utilize the entire airplane. We can put together a staff that can do that. On September 1, 1974, I will leave and go to Australia. We will be moving several loads of cattle from Australia into the Far East. We will be moving loads from California to the Hawaiian Islands and bring feeder calves back on the return flight. We will be fully utilizing more than one stretched DC-8 between now and the end of the year for maybe a 2-month period. We feel this is a very challenging effort on the part of agriculture and we expect that there will be a great deal of future techniques which will simplify and eliminate the death loss to zero.

Thank you. If there are no other questions, that completes my testimony.

Mr. FOLEY. You have some additional testimony?

Mr. DITANO. Yes, I do. I want to present, if I might, the testimony of Mr. Driscoll.

Mr. FOLEY. Yes.

Mr. DITANO. The National Air Carrier Association is a trade association comprised of the five major U.S. supplemental air carriers. As the members of this subcommittee may know, the supplemental carriers are the charter specialists in the field of air transportation, and each of them holds a certificate of public convenience and necessity issued by the Civil Aeronautics Board.

I am grateful for the opportunity to appear at this hearing. The bill being discussed today, H.R. 15843, is of substantial interest to the supplemental carriers, a portion of whose revenues are earned through the transportation of animals by air charter.

As we understand it, one of the principal purposes of the bill is to remove the exemption which now exists for common carriers under section 2143 of title 7 of the United States Code, and thus to permit the Secretary of Agriculture to promulgate regulations governing the humane treatment of animals while under the control of a common carrier. By its terms, the bill is directed only at a special type of animal, as that term is defined in the basic legislation—that is, any animal which the Secretary of Agriculture determines its being used, or is intended for use, for research, testing, experimentation, or exhibition purposes, or as a pet. The term specifically excludes horses not used for research purposes, and other farm animals utilized for food or breeding. Under section 15 of the bill, however, the Secretary of Agriculture is given blanket authority to adopt regulations governing the handling of these excluded animals during the course of their transportation in interstate commerce, and he is specifically empowered to impose more stringent requirements than are otherwise prescribed in this or any other act.

The supplemental air carriers, as charter specialists, are not involved in the movement of many laboratory research animals or pets. We are, however, significantly engaged in the movement of livestock—such as cattle, horses, swine, and sheep—by air both within the United

States and in international markets. I am appearing on behalf of the supplemental carriers because section 15 of the bill would, we believe, permit the Secretary of Agriculture to impose all of its other provisions on those engaged in the movement of livestock by air.

We support without hesitation any reasonable regulations promulgated by the Secretary of Agriculture to cover the humane treatment of livestock while in transit. We are concerned, however, that certain provisions of this bill, if made applicable by regulation or otherwise to the movement of livestock, would not assist the cause of humane treatment, and would substantially hamper the free flow of commerce.

I first refer to section 8 of the bill, which amends section 10 of the Animal Welfare Act. This provision requires that common carriers, including air carriers, among others, make and retain such records as the Secretary of Agriculture may prescribe covering the purchase, sale, transportation, identification, receiving, handling, delivering, and previous ownership of animals. This provision is not mandatory, and I hope that we can depend on the sound judgment of the Secretary not to place an enormous paperwork burden on air carriers. Nonetheless, it is possible that an air carrier, which is concerned only with the transportation of an animal from one point to another, could be required to assemble and retain an entire history of the animal from the time of its birth. This, of course, would be totally unnecessary and inappropriate to the performance of the transportation function. Livestock are normally carried in air charters pursuant to a charter contract, which contains all the information necessary for this function: the origin and destination, names of the consignor and consignee, and identification of the animals carried. We do not see that any further information is needed, and believe that the common carrier should not become the depository of historical records. We suggest, therefore, that language be added to the bill to the effect that common carriers need be required only to keep records relating to their transportation function. I refer you to Mr. Anderson's testimony for his explanation of the documentation coordination procedures of his airline.

Section 10 of the bill adds several new paragraphs to Section 13 of the Animal Welfare Act:

Subsection (b) of section 10 requires, among other things, that no animal may be accepted by a common carrier unless accompanied by a veterinary certificate attesting to its health and its ability to withstand the rigors of transportation. We are not qualified to comment definitively on this requirement, but do question whether it is necessary in all cases, particularly in the mass movement of livestock by air carrier. It would seem preferable that the statute not be mandatory in this respect, but that the Secretary of Agriculture, in the exercise of his expertise, designate the categories of animal to which this requirement would apply.

Subsection (c) requires that, unless otherwise indicated by the Secretary of Agriculture, no dogs or cats, or other classes of animal designated by the Secretary, be less than 8 weeks old when delivered to an intermediate handler or common carrier for transportation. We approve the flexibility granted to the Secretary in this respect, particularly because the 8-week limitation would be entirely inappropriate if it were applied to livestock. As Mr. Anderson has indicated, the

supplemental carriers are frequently called upon to move livestock much younger than 8 weeks of age, with no ill effects. If the 8-week limitation were imposed on livestock, by inadvertence or otherwise, it would be economically disruptive to their movement by air. We suggest, as an alternative, that the Secretary of Agriculture be required, by regulation, to designate minimum age requirements for various kinds and classes of animals.

Subsection (d) prohibits any intermediate handler or common carrier from participating in any arrangement or practice under which the cost of such animal or the cost of transportation of such animal is to be paid and collected upon delivery of the animal to the consignee. Once again, we cannot comment on the application of this provision to research animals or household pets, but we are deeply concerned about its possible impact on the movement of livestock. Financial arrangements for livestock movements are frequently made through the use of letters of credit, or such livestock may be moved CIF, that is, for an aggregate sum which includes cost of the animals themselves, insurance, and freight charges. Payment is traditionally made at the time of, or after, delivery of the animals to the consignee. Subsection (d) apparently would upset these well-established commercial methods. We believe that either the provision should be struck from the bill, or, alternatively, language should be added to section 15 to assure that any regulations of the Secretary of Agriculture not impose such a provision on the movement of livestock.

Finally, I should like to make a few general comments. There are already many existing Federal regulations which bear on the interstate transport of animals. For instance, Department of Agriculture regulations contain detailed provisions regarding the proper sanitary conditions of vehicles, including aircraft, used in the transportation of livestock. Department of Agriculture veterinarians are permitted to inspect livestock transport conditions, even in transit, to assure the absence of contagious disease. The Federal Aviation Administration has cargo safety regulations governing acceptable livestock containers. We believe the instant bill should take account of the present regulatory format, and not enact or authorize adoption of duplicative or conflicting requirements. As Mr. Anderson has stated, Trans International Airlines is presently engaged in a cooperative research program with the Department of Agriculture studying a broad range of problems having to do with the health and welfare of livestock being moved by air. It seems to us that there should be no further legislation or regulations proposed on the subject of livestock movement by air until the results of this study become available, since at that time we will have proper inputs from experienced Government and non-Government people who must deal with these problems on a daily basis. I might also add that most, if not all, States promulgate detailed regulations and requirements covering the health and welfare of animals moving into or within their borders. The bill makes no reference to these requirements. We indeed hope that, in the course of your deliberations, the State requirements will be explored with a view to not imposing any Federal standards which duplicate or are in conflict with those of the States.

Thank you very much.

Mr. FOLEY. Thank you very much. We are very happy to have your statement. If you can remain, we would like to call you back for questions at the end of the hearing.

Mr. DITANO. Thank you.

Mr. FOLEY. The next witness will be Mr. Robert Nejdl, Cedar Rapids, Iowa, representing the American Kennel Club. Happy to have you, Mr. Nejdl.

**STATEMENT OF ROBERT NEJDL, REPRESENTING AMERICAN
KENNEL CLUB, NEW YORK, N.Y.**

Mr. NEJDL. Mr. Chairman, I am Robert N. Nejdl.

Since January 1, 1973, I have been an executive field agent of the American Kennel Club, with headquarters at 51 Madison Avenue, New York, N.Y.

The American Kennel Club has been sensitive for several years to the problems of mass merchandising of dogs. During the early 1960's this organization began to recognize the potential of the commercial dog business and its associated problems. At that time the small staff in the New York office made written inquiries to the breeders. In the fall of 1968 the A.K.C. began a program of sending its executive staff members into the field to explain to groups of breeders and dealers the recordkeeping requirements and the methods of identification which are acceptable under the American Kennel Club's rules and regulations. This program has grown, but the demands have grown even more. A new approach was launched in January 1973, in which the A.K.C. went directly to the source—to the breeders themselves. This was the beginning of the program of having agents in the field permanently to monitor the activities of the breeders.

Field agents serve as a sensory device, feeling out the entire spectrum of activities, related to the breeding, raising and shipping of puppies before they reach the retail outlet. We field agents would be remiss in our duties if all we did when inspecting a kennel or a shipment of dogs was to look for basic identification and to close our eyes to the sanitary conditions surrounding the dogs. The field agent does see the conditions in which dogs are kept at the kennels; he does see the conditions under which these animals are shipped, whether or not the container is large enough for this specific dog and whether or not it has an opening so the dog can receive fresh food and fresh water during shipment; he does see the condition of the housing facilities for the collector or class B dealer; he does see airline and express company personnel at airports and observes how they care for the dogs in transit.

Because of the volume of reports we have on persons who do not provide proper conditions for their dogs, we are sometimes asked, "Are there any good kennels?" Perhaps this is an unfair question to ask us. I want to emphasize that the bulk of our inspections have been made in the problem areas. Frankly, we just have not had the time to observe many of the good kennels, but I assure you that there are many of them.

In making routine inspections of Montana, Colorado, Nebraska, Kansas, Missouri, Iowa, Minnesota, Wisconsin, and Illinois, we field agents have become very cognizant of the wide variations in the stand-

ards of care which are accepted by U.S. Department of Agriculture Animal and Plant Health Inspection Service veterinarians in the different States.

Sanitation of the breeder's kennels and the collector's housing facilities is of utmost importance to the health of the dogs—and, in some cases, of the people handling them. Yet I, and the other A.K.C. executive field agents, have observed many, many kennels whose sanitary conditions are very inadequate. Yet, these kennels are licensed by the USDA. It is difficult to understand the importance to a kennel of adequate electrical power and water supply—until one observes the sanitary conditions of a kennel with absolutely no electric power and no well.

Another problem is the size of the primary enclosures. The Department of Agriculture regulations include a formula giving the minimum acceptable area of floor space necessary for each dog. However, in my inspections, I have observed a wide variance in the size of these structures—all in kennels that are licensed by the USDA. Types of kennel facilities, sanitation measures, and identification procedures are spelled out in USDA regulations—so why the variety of interpretations of what is acceptable?

Prior to acquisition by the class B dealer, the puppy will experience his first really severe psychological strain—the trip from the breeding colony to the collector's housing facility. This can be quite a problem of logistics and time, because some class B dealers' radius of collection extends to 100 miles or more. During this transportation the puppy is under considerable stress: a changing environment, different food even—perhaps the puppy's first solid food—different water and, generally, a totally new way of life. Much greater stress will be placed on the puppy if he is only kept in the class B dealer's housing facility for the minimum time limit—one full calendar day, as required by USDA regulations. However, there has been some improvement here. We field agents are now finding some dealers who are holding these dogs as long as 4 days. This allows time for the dog or the puppy to become stabilized and time for the dealer to properly complete the necessary paperwork.

Included in this paperwork—if the dog is being shipped out of State—is a health certificate, signed by a licensed veterinarian. In our travels, we American Kennel Club field agents have found dealers in possession of pads of health certificates—in some cases, even ones that were signed in blank by a veterinarian. When we have found these questionable practices, we have notified the appropriate people.

During our airport inspections we have observed puppies nailed in crates: we have observed crates which are not large enough to allow the puppy room to turn around, which do not have adequate containers for food and water, and which do not have openings large enough for fresh food and water to be put in during shipment.

As I said before, we would be blind if, during our routine inspections, we did not see that many puppies and adult dogs are the victims of unsanitary kennels and housing facilities, unsuitable crating for transportation, and particularly, lack of proper preparation for the stress of transportation and new homes.

I recognize that we cannot legislate responsibility, we cannot legislate integrity or even values. However, we can charge the people

who have the care, custody, and physical control of the dogs to care for them as provided under the Animal Welfare Act. But to do this necessitates having a uniform interpretation of the regulations.

So that this committee may have a better idea of what I have been saying, so you may see what I have seen, I have here a group of pictures, showing kennel conditions I have observed. These pictures show kennels, running the average of the bad and the average of the good. They were taken in several States, to indicate that the condition of kennel facilities is not dictated by geography.

I wish now to make a few simple recommendations, which I believe will not be costly and which can be put into effect under the current powers of the U.S. Department of Agriculture.

I. ENFORCEMENT OF THE ANIMAL WELFARE ACT

I believe it should be administered only by people who have a distinct interest in the problems of small animal welfare. The Animal Welfare Enforcement Report of 1973 states that there are about 1,200 members of the field force, and that they spent 5 percent of their time on animal care; that is, routine inspections, investigations, and citations. This is equivalent to 60 persons working full-time in this area. I strongly believe that this aspect of the Animal Welfare Act would be better handled by 60 interested persons, who really want to work full time in this area.

To me it only seems logical that the APHIS field force should concentrate on the high concentration areas of puppy breeders and shippers. This would be: (1) at the airports, before animals are accepted for transport—granted, this may have to be done at midnight—and (2) at the dealers' collection and preparation facilities.

The Animal Welfare Enforcement Report of 1973 specifically states that, for nationwide enforcement of the USDA regulations related to the Animal Welfare Act, emphasis must be placed on the uniform enforcement and interpretation by the enforcement officers. My experience as an AKC field agent making inspections in several States has shown me that there is a wide latitude in the interpretation of these regulations from State to State.

II. IDENTIFICATION AND DOCUMENTATION OF SHIPMENTS

At the time being nearly all dogs and cats shipped are accompanied by a tag of some type, giving information about the animals being shipped: date of birth, parentage, breeder, et cetera. I recommend that the USDA require such tagging, giving not only the breeding information about the animal, but also the name and address of the breeder—including his USDA license number—and the names and addresses—and USDA license numbers, Federal license numbers—of all persons through whose hands the animal passes before reaching its ultimate destination, the consumer. This tag would also be the animal's health certificate, with a space for a veterinarian to sign, signifying that the animal was healthy at the time of his inspection.

Finally, the tag could be color-coded, so that the pilot and other airline personnel could tell at a glance that live cargo is going on board the airplane.

Such tagging procedure would enable health officials to trace the origin of any disease the animal may have contracted; it would allow the person accepting the shipment—or anyone else along the line—to tell at a glance the age, where the animal has been, and who has handled it; and it would assure proper handling by airline personnel.

I would like to add here that the American Kennel Club has been working in cooperation with the Department of Agriculture for several months to try and reduce the burdensome duplication now required in many areas of record-keeping.

III. VETERINARY MATTERS

I would like to emphasize my strong belief that the first veterinary certification of an animal's health should be at the breeder's facility. The uniform tag I proposed previously would have a space for this certification, which would then automatically accompany the animal to its final destination.

I believe that the animal should be prepared for removal from the litter at an age compatible with its health and its readiness for becoming a satisfactory pet. I think the USDA should set a minimum age for shipment of animals from the breeder, based on research which has been conducted by animal behavior experts. And we have a number of those people. There is Dr. Scott from the Roscoe B. Jackson Memorial Laboratory, Bar Harbor, Maine; Dr. Michael Fox, Washington University, St. Louis; Dr. Donald Draper, Iowa State University, Ames, Iowa; and two of your Seeing Eye Foundation, the Leader Dog for the Blind, San Faeal, Calif.; and the Seeing Eye Foundation, Morristown, N.J.

Perhaps the time has come when the veterinary certification of dogs and cats should be treated in the same way as that of livestock, that is, that the veterinarian would lose his accreditation for interstate movement of animals if it is discovered that he has falsely approved the health of the animal.

In conclusion, I wish to reemphasize that the animal must be properly prepared by the breeder for the stress it will receive in its various travels before it ultimately reaches a home. All my suggestions have been to assure that this is done.

I want to thank you for this opportunity to "tell it like it is." I am now prepared for any of your questions, in the strictest examination of any of my statements.

And in addition to that, I had not read the bill until yesterday and this was prepared along the way from out in the Midwest.

Mr. ZWACH [now presiding]. Thank you, Mr. Nejd. Thank you very much. We will continue to hear the witnesses and then we will come back to you.

Just one little comment. I would be inclined to feel from your report that there is less than full enforcement and uniform handling of present laws.

Mr. NEJD. I think the pictures there will depict it because of—

Mr. ZWACH. And we will perhaps expect you to touch on this area.

Mr. NEJD. Thank you.

Mr. ZWACH. Thank you very much.

Mr. NEJD. I will be glad to.

Mr. ZWACH. I would like to call now Dr. Edward Les, supervisor, animal health program, Jackson Laboratory, Bar Harbor, Maine. We will be glad to hear from you now, Dr. Les.

STATEMENT OF DR. EDWIN LES, SUPERVISOR, ANIMAL HEALTH PROGRAM, JACKSON LABORATORY, BAR HARBOR, MAINE

Dr. LES. Mr. Chairman, my name is Edwin Les and I am a staff member at the Jackson Laboratory in Bar Harbor, Maine, with a title of staff scientist and additional responsibility as staff supervisor of animal health.

The Jackson Laboratory is a nonprofit research institution conducting research primarily in biomedical fields. In addition to its function as a research institution, the laboratory also provides animals to other institutions throughout the world for carrying on research. The animals that we distribute to other laboratories are primarily mice and rabbits.

We are concerned with the quality of these animals not only in our own institution where we look after them with great care but also we would like to have these animals arrive at their destination in the best possible condition since they will be used shortly after arrival in medical research and it is very important that the animals be—that the animals not be subjected to stress during transportation and that they arrive in as good condition as possible at the recipient institution.

The Jackson Laboratory is dependent almost entirely upon commercial airlines for the distribution of animals to other institutions. At one time up until fairly—about 2 or 3 months ago the Jackson Laboratory sent its animals to the nearest airport which was in Bangor, Maine, where the animals were transferred from our special air-conditioned vehicle to the REA Express Agency which took them over and assigned them to the various air carriers. In that case it was up until recently the Northeast Airlines, more recently Delta Airlines. At that point the animals were transported by air from Bangor, Maine, to Boston and from there to other—by other airlines all over this country and to other parts of the world.

More recently, due to some changes in the regulations of the Federal Aviation Administration and the Civil Aeronautics Board, it has been necessary for the Jackson Laboratory to arrange a different form of transportation. At the present time we send our animals to Bangor, Maine, in our own air-conditioned vehicle and at that time they are transferred to the REA Express Agency and trucked in an air-conditioned or cooled vehicle from Bangor to Boston over the highway, at which point they are then distributed to the various airlines for distribution throughout the country.

We are concerned about the method of handling our animals while they are in the hands of the express agency as well as while they are in the hands of the airlines. In the past we have found—we have seen examples of what we would consider to be rather crude mishandling of some animals.

For example, we have seen the boxes, the shipping containers that our animals are shipped in, we have seen these containers thrown by the handlers from, say, a cart to a loading conveyor. We have seen these cartons tipped up on end so that all the animals were shaken down to the bottom of the carton and mixed up with their feed and

bedding material and carried this way for a distance. We have seen animals left on carts outside in the hot sun in the summertime and also in the cold weather in winter, unprotected from the elements.

The instruction labels on our shipping cartons specifically request that the animals not be exposed to extremes of heat or cold.

We have had cases of animals which, upon arrival, had obviously—were determined to have been exposed to an extreme drop in air pressure. This was evidenced by the fact that in one particular case I am referring to. All of the animals came down with ear infections as a result apparently of having had their eardrums burst due to sudden drop in air pressure while in the aircraft.

These cases fortunately, are not common. I would say that probably 95 percent of our animals arrive at their destination in fairly good condition. It is the small 5 percent that we are concerned about.

We have had reports come back to us from recipients stating that the animals were in a disheveled condition. They had obviously—I should not say obviously—apparently been in a carton that had been inverted because the wet mashed food that we supplied the animals during transit had then apparently dumped on top of the animal. This could only have happened by the carton having been inverted. Although this usually does not result in the death of the animal they are certainly not in too good condition at the time of arriving.

Recently I was asked by our assistant director for our production department to submit a statement to the Federal Aviation Administration confirming our support for some changes which are being proposed for the method of handling animals in transit. These changes have to do with securing the cargo, that is, the cartons in which the animals are contained, in such a way that they will not move during transit and seeing to it that the cartons are not stacked on top of each other in such a way as to prevent proper ventilation. We concur in these changes in regulations and in addition, we suggested that the regulations should include a statement to the effect that cartons, containers of animals, should always be maintained in the proper upright position. I assume that these regulations are going to be promulgated soon and look forward to it.

I realize that at the present time the Animal Welfare Act does not apply to mice but it does apply to the rabbits that we maintain and distribute. We make a considerable effort to comply with the requirements of the Department of Agriculture. We are subjected to periodic inspections by veterinarians from the Plant and Animal Health Inspection Service and we would like to see that the requirements for maintaining animals in our laboratory are extended to cover the animals while they are in transit and while they are temporarily delayed at various transportation facilities between aircraft rides.

We have had some instances of loss of animals during transit, apparently due to extreme heat and possibly due to lack of proper ventilation. In other words, the animals appeared to be suffocated at the time of arrival.

This represents a considerable loss not only to our own facilities but also to the recipient laboratory because the animals are not available for use when they want them. In some cases the loss is covered by the carrier but in many cases it is not. It is very difficult to prove

negligence to the extent that the carrier will be willing to reimburse either the recipient or the sender.

We make considerable effort to provide proper containers for shipping our animals. In the case of the mice, the cartons are constructed of corrugated paper that has a 350-pound test strength. The material is laminated with polyethylene to prevent moisture from seeping through the corrugated paper. The cartons are fully lined with wire mesh to prevent the animals from nibbling their way out. We consign a number of mice to each carton which is a maximum of 50, and 26 percent of the surface of the shipping container exclusive of the bottom is open. That is, it is ventilation space. It is, of course, screened and in addition, most of our shipping cartons are covered with a filter material to prevent dust and airborne contamination of any type from getting in.

Now, after all of this effort, we would like to see to it that the cartons are properly handled by personnel of the express agency on either end of the shipment as well as by personnel of the airlines.

At various times I and other people from the Jackson Laboratory have made trips to Boston to inspect the facilities of the airlines and to talk with representatives of the airlines concerning the methods of handling our animals. We have tried to find out what we could do at the Jackson Laboratory to insure proper handling of the animals. We do everything that we can think of on our end. We provide a special vehicle in which the cartons, the containers of animals are separated from each other. They are not stacked on each other. They are all maintained in racks which are built into the body of the vehicle. The vehicle is cooled in the summer, heated in the winter, ventilated and arrives at its destination in a relatively short time. It is a matter of a trip of about 1½ hours.

One of the problems that was explained to you by one of the officials of the airline was the method of assigning personnel to handling cargo. It appeared that at that time the work crew for any given job was selected from a group of men or women who were—who made an appearance at the so-called lineup and a group of people were selected to do a particular job on that day, and it usually turned out that these people had not necessarily been assigned to the same type of job previously. In other words, even though some instructions may have been given to personnel about how to handle cargo, cartons of live animals, on one occasion, the next occasion, the people might be entirely different people, and so would not have benefited from the previous instruction. So we suggested that it might be feasible, possible, for the airline to send some of its supervisory personnel to the Jackson Laboratory to see what is involved in producing laboratory animals of good quality, to see the care and the attention that goes into preparing these animals, raising them, preparing them for shipment, transporting them to the airline terminal, so that the people, the representatives of the airline and the supervisors of the personnel who handle shipments would become aware of how important we feel it is that these animals be properly handled.

The airline representatives assured us that they would make an effort to send someone, some supervisory people, to the Jackson Laboratory to become, you might say, sensitized to our concern for the welfare of these animals. Well, needless to say, it never happened. We never

did see anyone coming from the airline to visit us and the whole program apparently was forgotten.

Mr. FOLEY [now presiding]. Mr. Les, unfortunately the time situation constrains me to interrupt your testimony. Your statement is most interesting and I should have liked to hear more. We shall, however, keep the record open for about 10 days or 2 weeks and will be happy to include any additional comments you may wish to submit.

If you can remain, we would like to call you back at the end of the testimony period for some questioning.

Dr. LES. Thank you very much.

Mr. FOLEY. The next witness will be Mrs. Christine Stevens, secretary, Society for Animal Protective Legislation, Washington, D.C.

STATEMENT OF MRS. CHRISTINE STEVENS, SECRETARY, SOCIETY FOR ANIMAL PROTECTIVE LEGISLATION, WASHINGTON, D.C.

Mrs. STEVENS. Thank you very much, Mr. Chairman, for the opportunity to show the film. This would be in my prepared testimony. I will just read a very brief part of that and the film can go right on at the same time.

In considering the enforcement of the act over the past 8 years, we believe that the initial impact was substantial.

[Film.]

This is a laboratory in the State of New York taken approximately a year ago. It is under the jurisdiction of the Animal Welfare Act. You will note that it—you see the room that suggests inadequate veterinary care.

Birds are not covered at the present time by the act owing to their not being named by the Department of Agriculture.

You see the extreme overcrowding.

Those are planted electrodes in the cats' heads.

That is the end, Mr. Chairman. Perhaps I just will respond to questions at the end, if you would like me to save time.

Mr. FOLEY. Thank you very much, Mrs. Stevens.

[Mrs. Stevens' full statement appears in the August 8 proceedings.]

Mr. FOLEY. Our next witness will be Mr. Thomas Garrett, conservation director, Friends of the Earth, Washington, D.C.

STATEMENT OF THOMAS GARRETT, CONSERVATION DIRECTOR, FRIENDS OF THE EARTH, WASHINGTON, D.C.

Mr. GARRETT. Mr. Chairman, thank you for permitting me to testify. My testimony will be very brief indeed. I will not take up much of your time as I have no particular expertise in this area.

I simply want to put the 30,000 dues-paying members of the Friends of the Earth on record in support of H.R. 15843 and to commend the committee for holding these lengthy hearings.

I think it is especially important that you retain section 15 of the bill. In 20 years as a working rancher I have seen a number of sad situations involving abuse of animals in trucks. Granting it is to no one's interest to permit these, including the truckers, to permit such abuses to occur, but nonetheless, they do occur, I think it is very necessary to plug that gap in the Animal Welfare Act and make sure you retain section 15.

Thank you, sir.

Mr. FOLEY. Thank you, Mr. Garrett. We appreciate your presenting your views to the committee.

The next witness will be Mr. Robert Maxwell, president of the National Horse Carrier Association, Lexington, Ky., accompanied by Mr. Thomas Cummings, secretary-treasurer, and Mr. William Smith, vice president.

STATEMENT OF ROBERT MAXWELL, PRESIDENT, NATIONAL HORSE CARRIER ASSOCIATION; ACCOMPANIED BY THOMAS CUMMINGS, SECRETARY-TREASURER; AND WILLIAM SMITH, VICE PRESIDENT

Mr. FOLEY. Mr. Maxwell, do you have prepared testimony.

Mr. MAXWELL. No, sir, I do not.

We wish to thank you for the opportunity to be here today. We would like to express complete agreement with the testimony here given by the American Horse Council. We feel that we are involved in a special field in transporting horses. We are licensed by the Interstate Commerce Commission to haul what they designate as livestock other than ordinary. Specifically, thoroughbred horses, saddle horses, show horses, standard breed horses, polo ponies, ponies, and show cattle.

We feel that the humane treatment of animals is a must. We feel that there are sufficient regulations if enforced.

We have spent many years in this business, designing trucks or trailers, if you may, semitrailers, for the well-being of these animals, valuable animals, that we are entrusted to ship from point to point throughout the United States. Our association includes 17 members domiciled throughout the United States, primarily in the Midwest. Our membership ranges from the largest horse transportation firm in the United States of which Mr. Cummings is the president, to other very small operations. We are entrusted with animals with values up to \$6 million. As you all might know, the horse, Secretariat, we here at the witness stand have had the opportunity and pleasure to handle the shipment of that horse and horses like him.

I have with me some health certificates, copies of health certificates, things that—examples of what must be done to ship horses in interstate commerce, regulations that we must comply with. The horse must be identified. It must have its temperature taken by an accredited veterinarian. It must have an equine encephalitis vaccination record. It must have what we call in the trade the Coggin's test, which is actually the equine infectious anemia certificate, the date that certificate was received and the laboratory that did the test. The veterinarian must sign his name to the effect that the horse van has been disinfected prior to the loading of these animals. These health certificates are examined by the Department of Agriculture, department of motor transportation, and other State agencies throughout the United States. Very seldom does one of our vehicles make a complete trip without inspection of these health certificates and very possibly the inspection of the animal.

I will have to say that some States are very strict in their enforcement of these regulations and others seem to just kind of slide by.

We really prefer to be monitored by these States on a strict basis because if we accept a horse that has an infirmity or sickness that does not meet the eye and this horse gets sick in transit and it is one of these valuable animals that we have been talking about, we usually end up in court involved in a lawsuit.

I have with me some articles that have been written in trade papers, the trucking industry. I was only able to obtain those concerning my company which is Sallee Horse Vans, Inc., from Lexington, Ky.

Mr. SEBELIUS [now presiding]. If you have any articles that you would like to submit for the file we will be glad to receive them.

Mr. MAXWELL. Yes, sir. I also have some pictures here of the very specialized equipment that we use which I might add is all custom made and all designed with the safety and well-being of the animals in mind. These horses do not have much salvage value when you are hauling racing stock. Their main purpose is to win purse money and later on for breeding and if we contribute to the downfall of one of these animals, then our reputation and our livelihood is affected.

Steps are taken as far as to bandage the legs of these horses to keep them from hurting themselves in transit. Tall bars are installed in the trucks to keep them from rubbing their tails and making raw places. We, over the years, have been able to design, not a perfect horse van, but one that is better than anyone else has been able to come up with. I am talking about not as a company but as a specialized field of truck people.

I also have with me today a letter from the Governor of Kentucky that I would like to read for the record, if I may.

"Dear Mr. Maxwell, I have read with concern your August 5 letter and attachment to Mr. Rolapp"—who I might add is the executive director of the American Horse Council. "Federal proposals on transportation of animals certainly affect the horse industry in Kentucky if they do not exempt the transportation of horses other than ordinary"—and I might add that that is the only kind that we are authorized to handle.

"My initial reaction is to agree fully with your position. The bills on their face appear to take no recognition of the fact that humane transport is your business, that humane treatment is a requirement if you are to receive any benefits.

"I notice that there are committee hearings this week and next week on the bills. I would appreciate it if you would keep me informed and let me know if I can be of any assistance."

Mr. SEBELIUS. Would you like that to be made a part of the file record?

Mr. MAXWELL. Yes, I would.

Mr. SEBELIUS. In the absence of objection, it will be received.

Mr. MAXWELL. We contend that as a specialized carrier hauling animals not for slaughter, we are governed by the Interstate Commerce Commission as to what we can ship and we feel like that we should be exempt from these regulations.

Mr. SEBELIUS. Thank you. Does that complete your statement?

Mr. MAXWELL. Yes, sir.

Mr. SEBELIUS. Do either of the other gentlemen have a comment? If not, if you gentlemen will step down, we have one more witness and then we will ask you to come back up and testify for whatever further questions there might be.

I would like to call upon Mr. James Mitten, chairman of the livestock carriers division, American Trucking Association and he is being accompanied by Henry van Daalen, ATA.

I would like to state that Mr. Mitten is from my home district. He has been past president of the Kansas Motor Carriers Association. I likewise know that since 1967 he has never failed to receive safety recognition and last year in his category of complete safety, he was No. 3, and throughout the acres of western Kansas and other areas I have seen Mitten's cow taxis going everywhere with loads of cattle.

Jim, we will be glad to hear from you at this time.

STATEMENT OF JAMES MITTEN, CHAIRMAN, LIVESTOCK CARRIERS DIVISION, AMERICAN TRUCKING ASSOCIATION; ACCOMPANIED BY HENRY VAN DAALEN

MR. MITTEN. Mr. Chairman, distinguished members of the committee, my name is James J. Mitten. I am president of the Jim Mitten Trucking, Inc., of Oakley, Kans. Our company hauls beef cattle for-hire as a motor common carrier. We operate in 10 States. I am also chairman of the livestock carriers division of the Common Carrier Conference-Irregular Route of the American Trucking Association, Inc. This organization includes motor common carriers hauling ordinary livestock in all of the 50 States. While we do not know the actual number of head of ordinary livestock transported by truck, we can advise you that American Trucking Trends for 1973, of which I give you a copy for the record, indicates on page 18 and 19 that the percentage of tons shipped by motor common carrier of sheep and lambs for 1972 was 98.1 percent, cattle and calves 99.4 percent and for hogs 99.7 percent. The source of this information is the Packers and Stockyards Administration of the U.S. Department of Agriculture. What the figures are for goats and other ordinary livestock we are unable to ascertain.

First, let me emphasize that we do believe that the humane treatment and handling of certain animals which will be regulated under this act is a proper concern of the Congress. On that score we fully support the concepts of this legislation. Our concern goes to the practicalities of the proposal to include ordinary livestock in the bill.

The Interstate Commerce Commission, Bureau of Operations, Administrative Ruling 119, which supplements rulings Nos. 107 and 110 (section 203(b)(6)), service date April 27, 1972, defines ordinary livestock as follows: All cattle, swine, sheep, goats, horses, and mules except such as are chiefly valuable for breeding, racing, show purposes and other special uses. At this time we believe this definition to be pertinent to our proposal.

In the testimony of John A. Hoyt, president, Humane Society of the United States, he made a reference to Dr. Michael Fox who he noted "advises against shipping any animal before a very minimum of eight weeks." Let me respectfully note that in the case of ordinary livestock being transported by motor common carriers there are numerous instances during the calving season when we move cows and baby calves to and from grass pastures and wheat pastures. There are known instances of calves being born in transit. We motor common

carriers of ordinary livestock respectfully suggest that any restriction of this kind would be a practical impossibility.

Mr. Hoyt, also stated in his testimony that "The experience of the Humane Society of the United States is that airlines and truck transportation are the least regulated and the most problematic methods of moving animals." He then went to state that there is a "serious question as to why infirmed, diseased, improperly loaded or crated animals and livestock are accepted for shipment by common carrier."

He stated that he is a member of the board of directors for the Council for Livestock Protection and that:

Studies by this group have shown that losses of livestock transported by truck each year are fantastically high. In 1972, over 200,000 mature, full grown hogs died in transit from overcrowding, unsuitable weather, or bad handling practices by those who handled them . . . we lose about 39,000 calves every year in transit. We lose thousands of beef cattle and thousands more are rendered unusable because they are trampled on by other heavy animals during the transit process. There is no means of knowing the exact numbers. And, too, it is almost impossible to estimate the staggering amount of money lost each year because of the bruised meat which has to be sold at lower prices . . . all of these losses are due primarily to carelessness on the part of the truckers who do not stop periodically to check their loads to look for "downers".

My company is a major transporter of cattle. We have researched our records and I can advise you that in 1973 our company moved 2,900 loads with 153,020 head of cattle, 1,052,700 miles. In those movements we had six dead cattle and seven injured cattle for a total dollar value loss of \$1,996.22.

The owner and operator of Northrop, Inc., Earl Northrop, of West Fargo, N. Dak., has advised me that in 1973 they hauled 78,668 head of livestock, 607,000 miles with two dead cattle and three injured.

Eddie Blair, president, Bob Blair Transport, Inc., Amarillo, Tex., advises that in 1973 they hauled 114,344 head of cattle with five dead and two injured. Some of these loads went as far as Canada.

This can be summarized as follows: A total of 346,032 cattle transported by motor truck with a loss of 13 head plus 12 injured. Including the injured, this is a loss of seven-thousandths of 1 percent—0.007 percent.

In the last quarter of 1973, October, November, and December, the insurance claims at West Fargo, N. Dak., stockyards were as follows: 56,125 cattle—6 dead and 56 injured; 20,815 hogs—26 dead and 49 injured; and, 26,000 sheep—83 dead and 23 injured. These are figures quoted to us by an insurance company which handles transit insurance in West Fargo, N. Dak.

Section 10(b) requires that prior to transportation no animals shall be delivered for transportation to any intermediate hauler or common carrier for transportation in commerce unless the animals are accompanied by a certificate issued by a veterinarian licensed to practice veterinary medicine certifying that the animals when so delivered are sound, healthy, and in such condition that they may reasonably be expected to withstand the rigors of the intended transportation without adverse effects. We submit that the enforcement of such procedures in the transportation of ordinary livestock is impractical. For example, in the case of our area, there are approximately 50 semitrailer units for the transportation of livestock. There can be as high as 40 given points at 8 o'clock on any morning where trucks pick up livestock for

delivery. The number of veterinarians required to inspect even this simple operation are simply not available. When you expand this transportation to the entire United States of America in all 50 States, I think one must readily recognize that there are not enough veterinarians living today or who will be living in the contemplated future who could conceivably be available to meet the requirements of this section of the act. I can tell you that in my case we have 13 units that on any one given day could possibly haul livestock for as high as 40 to 50 different customers. To have a veterinarian available for each one of these individual loads is obviously an impossibility.

Let me give you another illustration which comes to mind. It is the practice of traders to offer truckloads of identical types of cattle to an auction barn. These cattle will have been collected over a period of a week or two, five animals at a time, from various small auctions until a full trailer load is available. Traders, for example, like to deliver in lots of cattle that weigh, for example, 400 pounds, or 500 pounds, or 700 pounds, or 800 pounds exclusively. Feedlots have the same problem in bringing cattle to full maturity for shipment to the packinghouses. The feedlot must have uniform load lots by weight, quality, and sex in order to process them efficiently and within cost limits for subsequent movement to the packinghouses. Therefore, your traders, at times, have to buy these at many different auctions in order to build a load lot. For these reasons, we know veterinary certification to be inoperable—impossible of attainment.

Section 10(d) of this bill reads as follows:

No intermediate handler or common carrier involved in the transportation of any animal in commerce shall participate in any arrangement or engage in any practice under which the cost of such animal or the cost of the transportation of such animal is to be paid and collected upon delivery of the animal to the consignee.

For your information, cash on delivery (c.o.d.) is a very common practice in the transportation of ordinary livestock. Language of this nature applied to ordinary livestock would cause a major disruption in this type of transportation.

Section 8 of the bill authorizes the Secretary of Agriculture to prescribe such records for common carriers and others with respect to the purchase, sale, transportation, identification, receiving, handling, delivery, and previous ownership of animals and that they be made available at all reasonable times for inspection and copying by the Secretary.

The only record we can possibly furnish is where we picked the cattle up and the receiver to whom they were delivered. The consignor at many auction barns is not listed except by number. We have no record of the previous owners. Lots of animals are hauled four or five times, as my testimony has previously indicated. The recordkeeping envisioned in this language insofar as it would apply to ordinary livestock is beyond the realm of possibility.

Section 9 of the bill would require the Secretary of Agriculture to set and promulgate standards for animals which, among other things, would include requirements with respect to ventilation—and other factors—as the Secretary determines are relevant in assuring humane treatment of animals in the course of their transportation in commerce.

The design and manufacture of livestock trailers is such that the sides and ends furnish adequate air and ventilation. This is accomplished by open-air venting throughout the entire length of both the sides of the trailer from top to bottom. To do less would be to smother the animals.

With regards to temperature standards which would also be required by section 9, I know of instances where calves have been born in the midst of a snowstorm in zero degrees weather and lived without any difficulties. With the type of trailer design presently in use today, we feel it is adequate for proper ventilation and temperature control.

The same conditions are also true in the case of heat. I would note that ordinary livestock does grow hair during the colder season to protect them against excessive frigid temperatures and sheds this same hair during the warmer months of the year. In other words, the animals climatize themselves.

For the reasons indicated, while we believe that the thrust of the proposed legislation is admirable in its intent, it is the opinion of the industry which I represent that an exemption should be granted to motor common carriers hauling ordinary livestock.

Let me put one final nail in this coffin. The Statistical Reporting Service, U.S. Department of Agriculture, reports that in 1973, 33,686,800 cattle were slaughtered in the United States. From my knowledge of the industry, I can tell you that each one of these animals moved at least five separate times during their lifetime. I would make the point, Mr. Chairman, that the requirements of this proposed legislation are impossible to meet in the face of this volume of transportation.

Because we have not had sufficient time to prepare specific language for the proposed exemption, we will furnish definitive language at an early date to the committee.

We urge your very serious consideration to our proposal. I thank you for the opportunity to appear before your committee today.

Mr. SEBELIUS. Thank you, Mr. Mitten, for your statement. You are accompanied by Mr. Henry van Daalen. That completes, I believe—is there anybody else who wants to testify? Those who have testified and are ready to come back up to the witness table area, there might be some questions.

Mr. MITTEN. Would you like for me to stay?

Mr. SEBELIUS. You stay right there. The others will come up and join you.

I would like to ask Mr. Mitten a couple of questions that I think would enlarge a little bit upon the subject.

As I understand it, you haul cattle.

Mr. MITTEN. Yes, strictly.

Mr. SEBELIUS. Have you had experience with others as far as hauling sheep or hogs?

Mr. MITTEN. I have no experience with hogs and very little with sheep.

Mr. SEBELIUS. But the members that you are the chairman of in ATA, they also haul hogs and sheep?

Mr. MITTEN. Yes, sir. They represent ordinary livestock carriers.

Mr. SEBELIUS. We were discussing this morning, and you told me certain averages for last year. What is your average distance that you hauled last year?

Mr. MITTEN. My average loaded load was 196 miles.

Mr. SEBELIUS. And what was the average size of that load?

Mr. MITTEN. Fifty-three head. This includes stockers, calves, and fat calves.

Mr. SEBELIUS. And what is your average over-the-road speed—what is your average when hauling on the interstate?

Mr. MITTEN. On the interstate, under the present law now, we can still average with our modern equipment, 50 and in excess of 50 miles an hour.

Mr. SEBELIUS. On secondary roads?

Mr. MITTEN. Secondary roads, I would say 45 miles an hour would be a good average.

Mr. SEBELIUS. And as far as your operation is concerned, what is the maximum time that you had a load between where you pick it up and where you unload?

Mr. MITTEN. We hold our operations to the point where we can deliver a load within the 10-hour limitations.

Mr. SEBELIUS. We had some pictures here by the gentleman on air transportation of livestock. Would you explain the equipment and how it works with your opossum belly or whatever we call it these days, loading your cattle?

Mr. MITTEN. Our modern livestock equipment is what we call in our industry the opossum belly type. A 40-foot piece of equipment, for instance, will have 60 feet of floor space. It is double deck through the center and single deck on the end for calves.

Mr. SEBELIUS. How would you load them?

Mr. MITTEN. We load them from the back. They go up a ramp over the top deck onto the nose section. The gate is closed. They load the top section. An additional gate is closed. A ramp then drops down into what we call the belly. It is loaded, closed, and then the back section is closed.

Mr. SEBELIUS. Average transporting—average 53 head. You are transporting it in four different containers, four different separated areas.

Mr. MITTEN. Yes, sir, under most circumstances. We do have gates we can add to partition more.

Mr. SEBELIUS. And as I read your testimony, you are not objecting to the basic idea as far as transportation of animals is concerned but livestock is a different situation, meaning livestock, horses, sheep, and hogs. I mean cattle, sheep, and hogs?

Mr. MITTEN. Yes. We endorse the humane method of handling livestock. We practice this in our own industry.

Mr. SEBELIUS. Well, in looking at your record, and knowing of other cattle haulers out in our area where we haul loads every day going to and from feeders and to the packing plants, from pasture to feedlot and maybe out from the wheat pasture, and noting the number of miles you traveled and to have only six dead cattle and seven injured, you just about have that many die for other reasons than that and I think it is very remarkable and some of the records you have shown here are likewise so.

Would you explain—I know that you do not make the long hauls but feeder cattle come from the South and from the west coast. Would you explain how they stop the truck at intervals and there are certain

designated points where you can take the cattle off, feed them and water them, and put them back on and go on with the trip?

Mr. MITTEN. Yes, sir. They have what they call unloading points and mostly they utilize sale barns along the route. I will not quote the time factor because I am not sure but in the back of my mind it is 29 hours that you can leave cattle on and 36 hours with the owner's permission but truckers that I know of definitely unload, rest, feed, and water cattle within this prescribed limit.

Mr. SEBELIUS. Mr. Chairman, I had some other notes but I was going to defer on the other questions because I thought perhaps others had more special interests. It is my personal interest that cattle, livestock, by that I am talking about hogs, sheep, the food items, be transported in a very proper manner but by the same token, some of the regulations proposed here just are not applicable or practical to livestock movement.

In our area where Mr. Mitten comes from, we have a county seat on average about every 30 miles and if we are lucky we have got a veterinarian that serves about 900 square miles of land and they are about as scarce as doctors out in this area for human beings. I have two counties that have no medical doctors for the whole county, so I am concerned about human care, but from the practical side I would like to point out we are not talking about the shipment of pets in boxes and crates. We are talking about a modern method, highly technical in the shipment of livestock between pasture and feedlots to packing plants and the fact that they should be treated differently. I think you headed it up very good in that respect, Mr. Mitten.

Now that you have all had a chance to testify, and I cannot find the notes on some of the others, everybody else has deserted me, we have a little more time until noon. If anyone would like to comment on anybody else's testimony—Mr. Foley is coming back now—or make any other remarks that you had not thought of when you made your presentation, we will be glad to hear from you at this time.

Mr. GARRETT. Mr. Sebelius, I can agree with most of what Mr. Mitten says but as I read the act, section 15 does not prescribe that the previous content of the bill will apply to livestock. It simply says that the Secretary of Agriculture is authorized to issue regulations. And one would anticipate that those regulations would be reasonable rather than language in section 10(a), and so on, which would be quite unreasonable.

Mr. SEBELIUS. I think what you say is well taken. What the big worry to so many of us, after we pass something that gives a little leeway as it should in many, many instances, we are scared of somebody getting hold of it and making a point of it. We had a problem with that in the Health and Safety Act. They got into certifying that "Mom and Pop" stores had to have two bathrooms and the toilet seats had to be horseshoe, could not be round. We are just scared somebody might get carried away. We are a little bit apprehensive but I do believe discretion is the way to legislate and I will turn it back to the Chairman, Mr. Chairman.

Mr. FOLEY [presiding]. I wonder if I could ask Mr. Driscoll—Mr. Ditano, you and Mr. Anderson testified about the shipment of cattle and other livestock. Are those largely breeding animals that are shipped by Trans-International?

Mr. ANDERSON. For the entire supplemental industry worldwide, we would be talking about a lot of feeder calves. For example, when I talked about Montevideo, Uruguay, to Milan, Italy, those were bull calves that were ultimately going to be raised to 1,200 pounds and eventually to slaughter. In the United States this has not happened yet because we are talking about complementing truck transportation and then international movements of livestock by air. That is probably what——

Mr. FOLEY. You say in your testimony the veterinarians have the opportunity to examine animals even in transit. Is that interstate or is it foreign commerce?

Mr. ANDERSON. If we are leaving from San Francisco or Oakland to the Hawaiian Islands we would have a State veterinarian who would look at those livestock, of course, before they would go into the islands. That would be a normal situation.

Mr. FOLEY. It is because of Hawaiian State law?

Mr. ANDERSON. That is correct.

Mr. FOLEY. Most of the concern, though, involves receiving animals into the United States, is that not true?

Mr. ANDERSON. That is true or is about 95 percent correct. If we had been moving livestock in an airplane that was coming back and had cargo on it, that airplane should, and is always inspected by the Federal USDA veterinarians to be sure it is clean.

Mr. FOLEY. Thank you.

Do you have any questions, Mr. Price?

Mr. PRICE. I just have one, Mr. Chairman. In Mr. Mitten's testimony, if this has not been asked, it says, "There are figures quoted to us by an insurance company which handles transit insurance in West Fargo, N. Dak."

What insurance company is that?

Mr. ANDERSON. This was a representative of the Hartford Insurance Co. which is stationed in Fargo, N. Dak.

Mr. PRICE. Well, I want to thank you for your testimony. I think it certainly points up the plight of the livestock industry and what this bill would do to it.

Mr. MITTEN. Thank you.

Mr. PRICE. I think we should be very concerned about it. I appreciate your taking the time to come here and testify.

Mr. SEBELIUS. Mr. Chairman, one other thing, because I wanted to get a little more information where the veterinarian does play a role in the transportation of hogs, sheep, and cattle. Out in our area, which is very similar to Mr. Price's area, we have large feedlots and bring in feeder cattle from other areas and all of these feedlots have veterinarians on call or full time, do they not?

Mr. MITTEN. All the feedlots I am familiar with, with any size do have veterinarians on the grounds.

Mr. SEBELIUS. So actually, when you bring feeders into a feedlot, they are all checked in, given certain shots, and so forth, and checked out and they segregate any that they fear would not be up to snuff, et cetera?

Mr. MITTEN. They are completely processed.

Mr. SEBELIUS. And cattle that you are hauling from the feedlot to the packing plant, the USDA inspector is going to inspect them prior to kill and also give them post-mortem inspections of the carcass.

Mr. MITTEN. Yes.

Mr. SEBELIUS. I thank you, Mr. Chairman. I just want to note that they do get a lot of inspection but not necessarily every time you pick them up.

Mr. FOLEY. Mr. Price?

Mr. PRICE. Yes. Mr. Mitten, I am a livestock rancher myself, a livestock feeder and rancher myself. In this legislation it says something to the effect that you have to regulate the temperature of the common carrier. How practical would this be? Let us use as an example, many instances over here in Virginia I have bought cattle and they maybe come out of 25 different States. They are gathered over here in a town in Virginia and they are loaded on, let us say, your truck. What is the possibility to keep the temperature regulated in your truck from the time you leave, say, over here in Virginia to Amarillo, Tex., in the wintertime, the temperature running all the way from 10 above to 10 below zero?

Mr. MITTEN. I cannot conceive of a trailer being built to haul livestock with refrigeration and haul more than, say, 10 or 12 head in that cubic space available under the regulation and the size we can go to. As you know, animals take a lot of air and animals also put off a lot of heat.

I would like to give you a little example. This has been several years ago when we had the open type trailers without the roof. Another boy from my home area and myself transported two loads to the Omaha market. I had the only open type trailer and he had the closed type. The cattle were loaded together and unloaded together. We went through a blizzard. We tried to tie up and could not even get off the road. The roads were that bad. So we had to keep going.

We unloaded the cattle. The cattle came off the open top trailer acting like they were wanting to look for something to eat, just as fresh as they could be. Those in the closed type trailer, incidently, where they at that time did not have as much air circulation as mine, were sweating, they steamed and when they hit the cold temperature, they came out and frost developed on their hair.

So what I am trying to say is that livestock more or less climatize themselves if they have the air circulation to do so.

Mr. PRICE. Do you think that present trailers that are built, that the provisions for the floors are sufficient to keep down as much slipping and slidding and bruising as possible?

Mr. MITTEN. We have incorporated in the floors on our trailers what we call a star design, aluminum tread plate to stop any slip. Trailers that do not have these are bedded with sand or other gritty ingredients.

Mr. PRICE. That is what I was going to ask you next. A lot of them put sand or sawdust on top of that in order to give them proper footing.

Mr. MITTEN. That is right. Yes.

Mr. FOLEY. Will the gentleman yield?

Mr. PRICE. Yes.

Mr. FOLEY. Mr. Mitten, if you held a position of responsibility in the Department of Agriculture and were called upon to advise the Secretary, do you think you experience in the transport of animals would enable you to devise standards which would eliminate existing

abuses while at the same time being both practical and economically tolerable?

Mr. MITTEN. I feel this. I have had 25 years' experience in the handling of livestock and I feel I have been reasonably successful. Prescribing rules and regulations to follow, I would not say that I was really capable of handling this kind of a job.

Mr. FOLEY. For example, we have been told of trailers that were not sufficiently strong to hold the weight of the animals.

Mr. MITTEN. Would you repeat, sir?

Mr. FOLEY. We have heard testimony about trailers with wooden decking that were not sufficiently strong to hold the weight of the animals so that during the course of the transportation the animals fell through the trailer and were dragged on the highway. Would a reasonable standard require that the decking be of a material and strength that will hold the weight of the animals?

Mr. MITTEN. I would have to answer this way, that in a successful business, we are continually upgrading, maintaining our equipment to where it will withstand all these rigors of load weights, and so forth.

Mr. FOLEY. Mr. Mitten, I am not unsympathetic to the fact that you cannot ship livestock in interstate commerce with unreasonable regulations. I am not as familiar with this problem as my friend, Mr. Price, but I also come from an area where cattle are moved. Furthermore, I realize they all cannot be moved in air-conditioned vans, nor do I think they can all be moved under conditions which we want to apply to other animals. It would naturally be unrealistic to have an individual veterinary certificate for each animal. What you said is extremely reasonable.

Yet, I don't feel that to allow the industry to regulate itself unencumbered by rules or guidelines.

Mr. MITTEN. I might add this, that through the wear and tear of some of the older equipment they are using, I can see where the wooden floors would wear and get weak. This is the reason that I think your major shippers have all gone to the metal type floors with structural strength to hold these animals.

Now, I do know that there is cattle transported in farm vehicles, for instance, that should not even be on the highway, let alone put the cattle or livestock in it. But how to control this, I have no way of really knowing.

Mr. PRICE. Would the gentleman yield?

Mr. FOLEY. I yield.

Mr. PRICE. I might say it is not true, Mr. Mitten, now that in interstate commerce, construction of these trailers nowadays has to meet certain specific requirements as to the amount of weight that they will hold? In other word, if you have a calf deck, they know that there is so much space available. They know that you can only get so many cattle in that space because of the weight and, therefore, they are structurally built for that type of thing. Since I was a young man I have known of three or four instances that the chairman spoke about when the old wooden decks first started, backing them in, you use to pull them and prop them up and I have seen some of those fall down and kill a bunch of cattle, but trailers are not built that way now. That is when we first started putting the old wooden decks in this, trying to double that cattle, and those are mostly, I

would say, completely out of existence today. So are not trailer builders at the present, required to build the decks of their trailers to specify in relation to the number of cattle you would haul?

Mr. MITTEN. This is true.

Mr. VAN DAALEN. May I make a comment? I am Henry van Daalen. One of the serious problems confronting the trucking industry has to do with sizes and weights and the House Public Works Committee is now in the throes of decisions on weights and one of the reasons that trailers do not have wooden decks any more is simply because of the weight restrictions. The more weight you have in the trailer, the less you can haul in the way of paying freight. And so this is why we have aluminum trailers which are very expensive.

Mr. FOLEY. I do not want to get into the specifics of the problem. I fail to see why Trans International Airlines or any other carrier maintaining high standards and good equipment should shoulder an added burden as a result of Department regulations and requirements. For they would have to do very little to comply with reasonable rules.

If you ship your cattle the way those pictures indicate, Mr. Anderson, I cannot imagine any Secretary of Agriculture wanting to be very onerous in the regulations. And if the practice of the national livestock carriers is to carry animals with the kind of a safety record mentioned today, at least in terms of animals' lives. I would not suppose there would be too much difficulty in complying with reasonable regulations.

Your point about veterinary certificates and other matters, I think, has been received with interest. We are concerned, obviously, with maintaining viable livestock shipping industry in the United States. Trucks move virtually all the cattle today. And we are concerned with not imposing on the industry some absolutely impossible standard of performance.

On the other hand, we must try to eliminate abuses permitted in certain areas or by certain individual operators.

Mr. PRICE. Mr. Chairman——

Mr. MITTEN. Mr. Chairman——

Mr. PRICE. Just a quick question. Do you have time—is there a time in the regulation now that you have to unload and water and feed the animals on cattle trucks? How many hours can you transport them without having to unload them?

Mr. MITTEN. Being not under regulation in interstate commerce, I cannot definitely answer that but in the back of my mind there is a 29-hour period with 36-hour owner permission period. Now, where this comes from I do not know. And why I think——

Mr. FOLEY. That is the old railroad law.

Mr. MITTEN. Maybe this is it.

Mr. PRICE. But those common carriers that do, are required to in the truck industry in interstate commerce.

Mr. MITTEN. This—I am not sure whether we are required to but we are not regulated.

Mr. PRICE. You have to have an owner's permit to go beyond a certain number of hours.

The second thing, how do you figure the space to be allotted to those animals? Let us say that they weigh 500 pounds.

Mr. MITTEN. On our equipment we take into consideration running feet of this 8-foot-wide trailer and we can safely load 700 pounds per foot of average cattle. In other words, 60 foot floor space, we can safely load 42,000 pounds without any problem on the average size cattle.

Mr. PRICE. And 42,000 is the maximum you can scale on the highways today under law, right?

Mr. MITTEN. No, sir.

Mr. PRICE. As far as the load is concerned?

Mr. MITTEN. I have equipment with more floor space that has cost in excess of \$50,000 that I can legally scale 50,000 pounds on, 45 foot of trailer and—

Mr. FOLEY. The House, unfortunately, has a quorum call pending. I am going to have to close the hearing.

Mrs. Stevens, I just want to ask you, you are concerned about the enforcement of the Animal Welfare Act as it currently is, I take it, and concerned that we need more resources applied for the inspections.

Mrs. STEVENS. Yes; very much so, and also I think that film shows the importance of exercise for laboratory dogs because of that incessant barking which I have observed in many, many visits to laboratories myself when they are perpetually bound. It is completely unnatural to dogs and that is the reason they do it. I hope that the present law can be more stringently enforced and I would say about livestock, I do not think you have much to worry about building into something that is too stringent. Up until now the existing law has not been enforced sufficiently.

Mr. FOLEY. Thank you very much. The chairman wishes to thank all the witnesses for appearing. I am sorry we always seem to have the same problem of time expiring before we can ask questions of all the witnesses who have remained.

This will be the last in this series of scheduled hearings. However, the Chair is planning to announce 1 day of hearings, probably during the middle or latter part of the month of September. At this time we will hear selected witnesses discussing problems concerning the shipment or use of dogs and other animals for fighting exhibitions. These hearings will be announced at a later time.

The subcommittee will stand adjourned, at the call of the Chair.

[Whereupon, at 12:08 p.m., the subcommittee was adjourned, subject to the call of the Chair.]

ANIMAL WELFARE ACT AMENDMENTS OF 1974

MONDAY, SEPTEMBER 30, 1974

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON LIVESTOCK AND GRAINS
OF THE COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:10 a.m. in room 1301, Longworth House Office Building, Hon. Thomas S. Foley (chairman of the subcommittee) presiding.

Present: Representatives Foley, Jones of North Carolina, Litton, Zwach, and Sebelius.

John F. O'Neal, general counsel; Fowler C. West, staff director; Hyde H. Murray, associate counsel; L. T. Easley, press assistant; John Rainbolt, associate counsel; Steven Allen, staff consultant; Steve Pringle, staff assistant; and Anita Brown, staff assistant.

Mr. FOLEY. The Subcommittee on Livestock and Grains will come to order.

The subcommittee meets this morning for consideration of H.R. 16738 and other legislation before the committee, relating to Animal Welfare Act amendments.

[H.R. 16738 and the reports from the U.S. Postal Service and the Department of Justice follow:]

93^D CONGRESS
2^D SESSION

H. R. 16738

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 19, 1974

Mr. FOLEY introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the Act of August 24, 1966, as amended, to assure humane treatment of certain animals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Animal Welfare Act
4 Amendments of 1974".

5 SEC. 2. The Federal Laboratory Animal Welfare Act
6 of August 24, 1966 (80 Stat. 350, as amended by the
7 Animal Welfare Act of 1970, 84 Stat. 1560; 7 U.S.C.
8 2131-2155) is hereby further amended by adding the fol-
9 lowing at the end of the first section thereof: "The Congress
10 hereby finds that animals and activities which are regulated
11 under this Act are either in interstate or foreign commerce

1 or substantially affect such commerce or the free flow there-
2 of, and that regulation of such animals and activities as
3 provided in this Act is necessary to prevent and eliminate
4 burdens upon such commerce, to effectively regulate such
5 commerce, and to carry out the objectives of this Act.

6 SEC. 3. Section 2 of such Act is amended by deleting
7 paragraph (d) defining "affecting commerce"; and by
8 amending paragraph (c) defining "commerce" by chang-
9 ing the last clause to read "or within any State, territory,
10 possession, or the District of Columbia."

11 SEC. 4. Such Act is further amended by deleting the
12 term "affecting commerce," from paragraphs (e) and (f)
13 of section 2 and sections 4, 11, and 12, wherever the quoted
14 term appears therein, and by substituting therefor the term
15 "in commerce,"; and by deleting, from paragraph (h) of
16 section 2, the phrase "or the intended distribution of which
17 affects commerce, or will affect commerce," and substituting
18 therefor the phrase "or are intended to be moved in
19 commerce,".

20 SEC. 5. Section 2 of such Act is further amended by
21 adding thereto two new paragraphs to read:

22 "(i) The term 'intermediate handler' means any per-
23 son, other than a dealer, research facility, exhibitor, any
24 person excluded from the definition of a dealer, research
25 facility, or exhibitor, an operator of an auction sale, or a

1 common carrier, who is engaged in any business in which
2 he receives custody of animals in connection with their
3 transportation in commerce.

4 “(j) The term ‘common carrier’ means the operator of
5 any airline, railroad, shipping line, or other enterprise,
6 which is engaged in the business of transporting any ani-
7 mals for the public, for hire.”.

8 SEC. 6. Section 6 of such Act is amended by inserting
9 after the term “research facility”, a comma and the term
10 “every intermediate handler, every common carrier,”.

11 SEC. 7. Section 9 of such Act is amended by inserting
12 after the term “Section 12 of this Act,” the term “or an
13 intermediate handler, or a common carrier,” and by delet-
14 ing the term “or an operator of an auction sale as well as of
15 such person” at the end of section 9 and substituting there-
16 for the following term: “operator of an auction sale, inter-
17 mediate handler, or common carrier, as well as of such
18 person.”.

19 SEC. 8. Section 10 of such Act is amended to read as
20 follows:

21 “SEC. 10. Dealers, research facilities, intermediate
22 handlers, common carriers, and exhibitors shall make and
23 retain for such reasonable period of time and on such forms
24 as the Secretary may prescribe such records with respect to
25 the purchase, sale, transportation, identification, receiving,

1 handling, delivering, and previous ownership of animals as
2 the Secretary may prescribe. Such records shall be made
3 available at all reasonable times for inspection and copying
4 by the Secretary.”.

5 SEC. 9. Section 13 of such Act is amended by designat-
6 ing the provisions thereof as paragraph (a) and by adding,
7 after the second sentence therein, a new sentence to read:
8 “The Secretary shall also promulgate standards to govern
9 the transportation in commerce, and the handling, care, and
10 treatment in connection therewith, by intermediate handlers,
11 air carriers, or other common carriers, of animals consigned
12 by any dealer, research facility, exhibitor, operator of an
13 auction sale, or other person, or any department, agency, or
14 instrumentality of the United States, for transportation in
15 commerce. The standards shall include such requirements
16 with respect to containers, feed, water, rest, ventilation, tem-
17 perature, handling, adequate veterinary care, and other fac-
18 tors as the Secretary determines are relevant in assuring
19 humane treatment of animals in the course of their trans-
20 portation in commerce.”.

21 SEC. 10. Section 13 of such Act is further amended by
22 adding at the end thereof new paragraphs (b), (c), and
23 (d) to read:

24 “(b) No animals shall be delivered by any dealer,
25 research facility, exhibitor, operator of an auction sale, or

1 department, agency, or instrumentality of the United States,
2 to any intermediate handler or common carrier for transpor-
3 tation in commerce, or received by any such handler or car-
4 rier for such transportation from any such person, depart-
5 ment, agency, or instrumentality, unless the animals are ac-
6 companied by a certificate issued by a veterinarian licensed
7 to practice veterinary medicine, certifying that the animals
8 when so delivered are sound, healthy, and in such condition
9 that they may reasonably be expected to withstand the
10 rigors of the intended transportation without adverse effects.
11 Such certificates received by the intermediate handlers and
12 the common carriers shall be retained by them as provided
13 in section 10 of this Act.

14 “(c) No dogs or cats, or additional kinds or classes of
15 animals designated by regulation of the Secretary, shall be
16 delivered by any person to any intermediate handler or com-
17 mon carrier for transportation in commerce if they are less
18 than eight weeks of age, or such other age as the Secretary
19 may by regulation prescribe. The Secretary shall designate
20 additional kinds and classes of animals and may prescribe
21 ages different than eight weeks for particular kinds or classes
22 of dogs, cats, or designated animals, for the purposes of this
23 section, when he determines that such action is necessary
24 or adequate to assure their humane treatment in connection
25 with their transportation in commerce.

1 “(d) No intermediate handler or common carrier in-
2 volved in the transportation of any animal in commerce shall
3 participate in any arrangement or engage in any practice
4 under which the cost of such animal or the cost of the trans-
5 portation of such animal is to be paid and collected upon
6 delivery of the animal to the consignee.”.

7 SEC. 11. Section 15 of such Act is amended by insert-
8 ing after the term “exhibition” in the first sentence, a comma
9 and the term “or administration of statutes regulating the
10 transportation in commerce or handling in connection there-
11 with of any animals”, and by adding the following at the
12 end of the sentence: “No standard governing the air trans-
13 portation and handling of animals in connection therewith
14 shall be made effective without the approval of the Secre-
15 tary of Transportation who shall have the authority to dis-
16 approve any such standard if he finds that changes in its
17 provisions are necessary in the interest of flight safety.”.

18 SEC. 12. Paragraph (a) of section 16 of such Act is
19 amended by inserting the term “intermediate handler, com-
20 mon carrier,” in the first sentence after the term “exhibi-
21 tor,” each time the latter term appears in the sentence; by
22 inserting before the period in the third sentence, a comma
23 and the term “or (5) such animal is held by an intermediate
24 handler, or a common carrier” and by deleting the term
25 “or” before the term “(4)” in the third sentence.

1 SEC. 13. Section 19 of such Act is amended by adding
2 at the end thereof the following new paragraph (d) :

3 “(d) Any intermediate handler or common carrier that
4 violates any provision of section 13 of this Act or any stand-
5 ard promulgated thereunder may be assessed a civil penalty
6 by the Secretary of not more than \$1,000 for each such
7 violation. Each violation shall be a separate offense. No
8 penalty shall be assessed unless such person is given notice
9 and opportunity for a hearing with respect to the alleged
10 violation, and the order of the Secretary assessing a penalty
11 shall be final and conclusive unless the affected person files
12 an appeal from the Secretary's order with the appropriate
13 United States court of appeals. Such court shall have ex-
14 clusive jurisdiction to enjoin, set aside, suspend (in whole
15 or in part), or to determine the validity of the Secretary's
16 order, and the provisions of sections 2341, 2343 through
17 2350 of title 28, United States Code, shall be applicable
18 to such appeals and orders. Any such civil penalty may be
19 compromised by the Secretary. Upon any failure to pay the
20 penalty assessed by a final order under this section, the
21 Secretary shall request the Attorney General to institute a
22 civil action in a district court of the United States or other
23 United States court for any district in which such person
24 is found or resides or transacts business, to collect the pen-

1 alty, and such court shall have jurisdiction to hear and decide
2 any such action.”.

3 SEC. 14. Section 24 of such Act is amended by insert-
4 ing a comma and the term “intermediate handlers, and com-
5 mon carriers” after the term “dealers” in the third sentence;
6 and by adding a comma and the following provisions before
7 the period at the end of the first sentence: “except that the
8 regulations relating to intermediate handlers and common
9 carriers shall be prescribed no later than nine months
10 from the date of enactment of the ‘Animal Welfare Act
11 Amendments of 1974.’.”

12 SEC. 15. Notwithstanding any other provision of law,
13 the Secretary of Agriculture is authorized to issue regula-
14 tions to assure the humane handling of livestock (as ex-
15 cluded in section 2(f) of the Act of August 24, 1966, as
16 amended) by any person having custody thereof in the
17 course of their transportation by railroad, motor carrier,
18 airline, or other common carrier from one State or territory
19 or the District of Columbia into or through another State
20 or territory or the District of Columbia. Such regulations
21 may impose more stringent requirements than are other-
22 wise prescribed in this or any other Act. Any person who
23 violates any such regulation shall be liable for and forfeit
24 and pay a penalty as provided in sections 3 and 4 of the
25 Act of June 29, 1906 (45 U.S.C. 71-74).

1 “(2) any dog or animal for purposes of having the
2 dog or animal participate in a dog or animal fighting
3 venture.

4 “(c) It shall be unlawful for any person to receive any
5 live dog or animal from any person described in subsection
6 (b) if he knows or has reason to know that the dog or
7 animal—

8 “(1) has been trained for purposes of participating
9 in the dog or animal fighting venture; or

10 “(2) has been transported or delivered for such
11 purposes.

12 “(d) It shall be unlawful for any person to knowingly
13 use the mail service of the United States Postal Service or
14 any interstate vehicle for purposes of promoting or in any
15 other manner furthering a dog or animal fighting venture.

16 “(e) Any person who violates subsection (a), (b),
17 (c), or (d) shall be fined not more than \$1,000 or im-
18 prisoned for not more than one year, or both, for each such
19 violation.

20 “(f) For purposes of this section—

21 “(1) the term ‘dog or animal fighting venture’
22 means any event which involves a fight between at
23 least two dogs or any other warmblooded mammals and
24 is conducted for purposes of sport, wagering, or enter-
25 tainment;

1 “(2) the term ‘interstate or foreign commerce’
2 means—

3 “(A) any movement between any place in a
4 State to any place in another State or between
5 places in the same State through another State; or

6 “(B) any movement from a foreign country
7 into any State.

8 “(3) the term ‘interstate vehicle’ means the tele-
9 graph, telephone, radio, or television; and

10 “(4) the term ‘State’ means any State of the
11 United States, the District of Columbia, the Common-
12 wealth of Puerto Rico, and any territory or possession
13 of the United States.”.

14 (b) Section 19(c) of such Act is amended by striking
15 out “Any dealer” and inserting in lieu thereof “Except as
16 provided by section 26 of this Act, any dealer,”.

17 SEC. 16. Notwithstanding any other provision of law,
18 the Secretary of Agriculture is authorized to issue regula-
19 tions to assure the humane handling of livestock (as ex-
20 cluded in section 2(f) of the Act of August 24, 1966, as
21 amended) by any person having custody thereof in the
22 course of their transportation by railroad, motor carrier,
23 airline, or other common carrier from one State or territory
24 or the District of Columbia into or through another State
25 or territory or the District of Columbia. Such regulations

1 may impose more stringent requirements than are other-
2 wise prescribed in this or any other Act. Any person who
3 violates any such regulation shall be liable for and forfeit
4 and pay a penalty as provided in sections 3 and 4 of the
5 Act of June 29, 1906 (45 U.S.C. 71-74).

6 SEC. 17. If any provision of this Act or of the amend-
7 ments made hereby or the application thereof to any person
8 or circumstances is held invalid, the validity of the remainder
9 of the Act and the remaining amendments and of the ap-
10 plication of such provision to other persons and circum-
11 stances shall not be affected thereby.

U.S. POSTAL SERVICE,
LAW DEPARTMENT,
Washington, D.C., October 8, 1974.

Hon. W. R. POAGE,
*Chairman, Committee on Agriculture,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This responds to your request for the views of the Postal Service on H.R. 16738, the proposed "Animal Welfare Act Amendments of 1974." We note that for the most part this bill is identical to H.R. 15843. The Postal Service furnished its comments on H.R. 15843 to the Subcommittee on Livestock and Grains in a letter dated August 14, 1974.

H.R. 16738 contains a new section 15, not in the earlier bill, which would add a new section 26 to the Federal Laboratory Animal Welfare Act imposing criminal penalties on those engaged in "dog or animal fighting ventures." We believe that the Congress is best able to judge whether it is desirable to apply the sanctions of Federal criminal law to those engaged in promoting or attending dog or animal fights, and whether there is adequate justification for expending the finite resources of Federal law enforcement agencies in this area. Accordingly, we would not object to the enactment of proposed new section 26.

We note that proposed section 26(d) would make it unlawful for any person to "knowingly use the mail service of the United States Postal Service" for promoting a dog or animal fighting venture. In the interests of effective law enforcement, the Postal Service believes that any criminal statute prohibiting the use of the mails to further a dog or animal fighting venture should be accompanied by an amendment of the postal mailability statutes which would enable the Postal Service to seize and dispose of dogfight publications and advertisements placed in the mails. We therefore recommend that the following section be added to H.R. 16738:

Sec. . . Section 3001(a) of title 39, United States Code, is amended by adding immediately after the words "title 18" a comma and the words "or section 26 of the Federal Laboratory Animal Welfare Act."

We believe that amending H.R. 16738 in this manner would add significantly to its effectiveness in combating animal and dogfighting ventures.

Sincerely,

W. ALLEN SANDERS,
Assistant General Counsel, Legislative Division.

DEPARTMENT OF JUSTICE,
Washington, D.C., October 11, 1974.

Hon. W. R. POAGE,
*Chairman, Committee on Agriculture,
House of Representatives,
Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 16738, the proposed "Animal Welfare Act Amendments of 1974."

This bill would amend the Act of August 24, 1966, as amended, by providing numerous measures aimed at assuring humane treatment of certain animals. The provisions of the bill which are of particular interest to the Department of Justice are contained in Section 15. This section could create a new Federal criminal offense for any person to "knowingly sponsor or attend a dog or animal fighting venture . . ." Other offenses are also provided for the transportation, delivery for transportation, or receipt in interstate or foreign commerce of any live dog or animal which the offender knows or has reason to know has been trained to participate in dog or animal fighting ventures. Finally, it is made unlawful for any person to knowingly use the U.S. mails or any interstate vehicle for purposes of promoting or in any other manner furthering a dog or animal fighting venture. The penalties provided for each violation are a fine of up to \$1,000 or imprisonment for not more than one year, or both.

The provisions of section 15 of the bill, which create a new Section 26 in the 1966 Act, contain some substantial problems as presently drafted. For example, the new section 26(a) is ambiguous as to whether the words "as a result of engaging in interstate or foreign commerce" apply to the person sponsoring or attending the venture or to the participating animals or both. Further, section 26(c) is so broad as to make receipt of a trained dog by a humane society an unlawful act, although the receipt may be for a neutral or landatory purpose.

Aside from any infirmities in the present draft of the bill, the Department strongly feels that prohibitions against dog or animal fighting ventures should be a matter of state rather than federal law. Traditionally in our form of government the responsibility for the maintenance of law and order has been lodged with state and local authorities. Federal jurisdiction has been for the most part restricted to matters directly involving a function of the federal government or otherwise beyond the normal enforcement capability of such state or local authorities. There appears to be no sound basis for the view that federal intervention in this area could more effectively handle such investigations or have a more deterrent effect in preventing the type of offenses contained in H.R. 16738.

While it is likely that the cost of enforcing the prohibitions contained in H.R. 16738 would be significant, we are unable to estimate these costs with any particularity.

Concerning the various other provisions of H.R. 16738 dealing with the humane treatment of animals, the Department defers to the views of the Department of Agriculture.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

W. VINCENT RAKESTRAW,
Assistant Attorney General.

Mr. FOLEY. During previous hearings of the committee, it came to the attention of the subcommittee that evidence clearly indicates an increase in dogfighting throughout the United States. We have been made aware of this fact through the efforts of animal welfare societies and investigative reports through the news media.

Although the United States has in State law and local ordinances widespread prohibitions against the fighting of animals, serious questions have arisen as to whether these laws are, by themselves, sufficient to prevent this allegedly growing practice.

We have before the subcommittee this morning additional legislation which seeks to prohibit the use of the mails for transmitting information in addition to prohibiting the interstate transportation of warm-blooded mammals for the purpose of dogfighting.

I want to emphasize that the legislation beforehand, that if the subcommittee does determine to report any legislation, will be made clear, either by legislative amendment or in the report, not to seek to preempt that the measure does or preclude State or local laws. Instead, the Federal law, would be to supplement State or local statutes. We will have to insure that there is no legal assumption of what we call preemption since the primary enforcement of any such laws will probably necessarily continue to reside with local and State governments.

The first witness this morning will be Mr. Duncan Wright, president of the American Dog Owners Association, Sacramento, Calif. Mr. Wright is accompanied by Mr. Thomas Stephenson, Mr. Stephen Smith, and Mr. Edward Blotzer.

I understand, Mr. Wright, that there is a short film for the information of the subcommittee.

STATEMENT OF DUNCAN G. WRIGHT, PRESIDENT, AMERICAN DOG OWNERS ASSOCIATION, SACRAMENTO, CALIF.; ACCOMPANIED BY THOMAS STEPHENSON AND EDWARD J. BLOTZER

Mr. WRIGHT. Yes, Mr. Foley. I think, before we make our statement, we would like to show this film. I am wondering if we can perhaps dim the lights.

Mr. FOLEY. Before you begin, Mr. Wright, for the information of those in attendance, including the press, may I say that because of the limited time available to the subcommittee, before the Congress recesses, these hearings were not made open to all witnesses who wished to testify. We asked certain witnesses we felt had information that would be beneficial and informative to the subcommittee to testify. This is not usually the practice of the subcommittee.

On Wednesday of this week, October 2, we will hear from witnesses who are Members of Congress.

Mr. Wright, would you proceed?

Mr. WRIGHT. I would like to make one brief comment regarding the film. This particular film is characteristic of the types of films that can be obtained of dogfights either by people who are involved in the fight and therefore acceptable to the other people, or which can occasionally be purchased from the dog magazines or from specific dog-fighters, and I would like to observe that this type of material, of course, is transmitted through the mails.

[At this point a film was shown.]

Mr. WRIGHT. The people whom you see in the ring are the referee and the owners of its two dogs. Of course they are involved in encouraging their dogs to do a better job.

Mr. Chairman, I have with us today, Mr. Ed Blotzer, who is the chief humane agent for Animal Care and Welfare, Inc., of Pittsburgh, Pa. That organization is a society for the prevention of cruelty to animals. On last Monday his organization conducted a raid in the Pittsburgh area in which they picked up 15 fighting dogs, and for the information of those who are not familiar with this type of dog, Mr. Blotzer has one with him today, and he will be available for any questions that the committee might like to ask.

On my extreme left is a field investigator for the American Dog Owners Association. In accordance with the practice of the association, the procedure we followed throughout the country was to infiltrate various fighting groups. Mr. Stephenson infiltrated the fighting group in Chicago, Ill., and was responsible for obtaining access for Mr. Wayne King of the New York Times. He also will be available to answer any questions that you might have.

My name is Dunca G. Wright and I am president of the American Dog Owners Association, Inc. On behalf of the members of the association, I would like to express appreciation for the opportunity to appear before your committee.

The American Dog Owners Association is incorporated in the State of Michigan, is a nonprofit, tax-exempt organization, and has principal offices in Sacramento, Calif. The association address is: P.O. Box 13918, Sacramento, Calif. 95813, and the phone is 916-925-7646.

The American Dog Owners Association has members in all 50 States and three foreign countries. The membership consists of individuals, families, and local organizations, such as dog clubs, kennel clubs, cat clubs, and humane societies interested in the welfare of dogs and other animals. The ADOA is the largest organization of its type in the United States.

As president, I am responsible for day-to-day management of the ADOA, for implementation of the policies established by our board of directors, and for the detailed direction of specific programs. I am

authorized by our board of directors to make this statement to this honorable committee regarding our investigation of dogfighting and related activities in the United States. Further, because of my involvement and participation in our dogfighting investigation, I am personally familiar with details of this program and its objectives and results.

I would like to comment that it is not the intent of the association to present to this distinguished committee a series of horror stories nor to engage in hysteria concerning the inhumanity inherent in the deliberate fighting of dogs and other animals. Rather, we hope that data and evidence to be presented will clearly substantiate the need for Federal laws, as well as the involvement of Federal law enforcement groups to stop the incredible cruelty associated with dogfighting.

This is not to lessen in any sense the magnitude of the inhumanity to animals involved in dogfighting. One has only to see a dog tear another's eye out, or to see a dog attempting to fulfill his master's wish by standing to fight on the stump of a broken and torn leg, to realize the terrible cruelty. But no less inhumane are those who subject their children to these horrors, for they are certainly perpetuating an attitude incorporating not only disrespect for the law, but an impeachment of the very dignity of man. This incredible and deliberate horror must be stopped and based upon our investigation and our knowledge of pit fighting, it will only be stopped by the involvement of Federal law enforcement agencies.

The American Dog Owners Association commenced a very detailed and exhaustive investigation of dogfighting in the United States in approximately mid-1971. At the time the effort was initiated, our information on this activity was general in nature and derived primarily from an occasional copy of a dogfighting magazine and second- and third-hand accounts of discussions with people involved in dogfighting. As a result, we were of the opinion at that time that dogfighting tended to be localized, occurred predominantly in southern and southeastern areas of the United States, and that if sufficient data could be obtained, local authorities could be alerted and the activity essentially stopped.

In any event, the American Dog Owners Association commenced its investigation by establishing three investigative teams. The first, headquartered in St. Louis, Mo., undertook the task of a detailed literature survey starting with the year 1900 and a magazine called *Bloodlines*. Within a short time, the ADOA had subscribed, using fictitious names and post office boxes as drops, to the major current dogfighting magazines. We also circulated to a select and very limited number of our members, a questionnaire.

Employing a small group of members headquartered in Texas and functioning at a data-acquisition team, we continued to collect and analyze all types of input information.

The third of our operational teams, that responsible for field investigation of dogfighting, was headquartered in the Detroit, Mich., area.

The investigative technique employed by the American Dog Owners Association was to first define major areas of dogfighting, to identify individuals by name and address, and to then infiltrate various dogfighting groups. This was accomplished by contacting individual

dogfighting people by letters, by phone, and in person under a variety of subterfuges. For example, we would contact a dogfighter to purchase a fighting dog and to discuss training techniques. Gradually, we succeeded in developing a rapport with certain elements of the dogfighting community and these contacts were used to gain information and entrance to fights. Our fieldmen participated in the gambling. On one occasion, the association paid \$1,000 to an informer for a lengthy discussion.

Early in the investigation, as a result of our data-collection activity, it became apparent that our initial opinions on primary locations, fight frequency, and the extent of gambling and other activities was incorrect. In substance, we found that:

1. While dogfighting had tended to be somewhat localized in the pre-World War II period, during the past approximately 30 years the headquarters had shifted from southern to northern and mid-western areas.

2. During this same approximately 30-year period, there had occurred a very substantial increase in the frequency of both local and regional fights—conventions.

3. There also occurred a significant increase in the number of people involved, the average amount bet on fights, and the level of peripheral activities, such as prostitution.

Finally, it became very obvious that a tremendous increase had taken place in the interstate transport of dogs for fighting purposes as well as the selling in commerce of fighting dogs, puppies bred for fighting purposes, magazines devoted exclusively to dogfighting, and training equipment.

The results of our investigation indicate that at the present time, major centers of dogfighting by States are: California, Florida, Illinois, New York—including New Jersey, Connecticut, Massachusetts, and Rhode Island—and Texas.

Secondary areas are: Alabama, Arizona, Georgia, Indiana, Louisiana, Michigan, Mississippi, Missouri, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Utah, and Wisconsin.

Major areas by cities or city areas are: Atlanta, Bakersfield, Chicago, Cleveland, Dallas, Denver, Fort Worth, Jacksonville, Los Angeles, Miami, Milwaukee, Nashville, New Haven, New Orleans, New York City, Orlando, iPttsburgh, Phoenix, Salt Lake City, San Antonio, San Diego, Tucson, and the Greater San Francisco area.

There are at present or within the very recent past, three dogfighting publications distributed across the United States.

The first is "Pit Dog" published by Pete Sparkes, Box 716, Starke, Fla. 32091. This magazine is the most prestigious and probably is the widest read, but not the largest in terms of circulation.

The second is "Sporting Dog Journal" published by Jack Kelly, P.O. Box 296, Richmond Hill, N.Y. 11418. This magazine is relatively new and distributed primarily in the eastern United States.

The third is "Pit Dog Report" published by Don Mayfield and Jimmy Jobe, Route 2, Box 276, Mesquite, Tex. This magazine is published every 2 months and probably has the largest subscription list.

There is a registry for fighting dogs known as "The American Dog Breeders Registry," operated by Ralph Greenwood with an address of Box 1771, Salt Lake City, Utah 84110. This registry was originally

operated by Frank Ferris of East Kingston, N.H. It was subsequently moved to Denver and finally to Salt Lake City [fig. 1].

Dogfighters often advertise challenges [fig. 2] and dogs and equipment for sale in the dogfighting magazine [fig. 3].

(The illustrations are held in the subcommittee file.)

The dog most commonly used by dogfighters is the american pit bull terrier, although specially bred crossbreeds and staffordshire terriers are also used. In our investigation, as a result of actually attending dogfights and personal conversations with dogfighters, we learned that in approximately 40 percent of the fights, both the dogs will die and in about 70 to 75 percent of the fights one of the dogs will die. Fights seldom last less than about 45 minutes, generally last about 1½ hours, and sometimes last as long as 2½ to 3 hours.

Drugs are sometimes used on the dogs before a fight although some dogfighters frown on that technique. When used, the drugs generally consist of Dopram, a respiratory stimulant and an amphetamine, both used in injectable form.

Generally, those involved in dogfighting can be divided into four categories:

1. Individuals who breed, raise, train, and fight dogs. These individuals also gamble.
2. Individuals who train and fight dogs purchased from others and gamble.
3. Individuals who do not breed, train, or own fighting dogs and who participate in the activity as a means of gambling.
4. Individuals who promote and stage dogfights for the purpose of profit from admission fees, gambling, selling of alcoholic beverages, prostitution, and other activities.

Dogfighting encompasses a broad spectrum of activities varying from what is called rolling to the fighting of dogs bred and trained for that purpose as well as the fighting of pet-type dogs stolen or acquired from pounds or shelters. In addition, while the training of a fighting dog may not involve the use of other smaller animals as bait, frequently the training process includes permitting the fighting dog to kill numerous smaller animals in practice sessions.

In substance, rolling consists of pitting one dog against another, but under close supervision so that no serious damage is done to either dog. Rolling is commonly used as the final stage of training. Dogfighting consists of pitting one dog against the other in an unlimited fight until one dog is disabled, killed, or pulled out by its owner. Owners seldom pull dogs because of the money involved and because anything can happen.

I once saw two dogs fight for about 1 hour and 40 minutes at which time one of the two appeared to be gone. The second dog, which had been standing over the first chewing on the head of the downed dog, stopped and stood erect. After a moment, the downed dog suddenly jerked up and disemboweled the standing dog. Within a few minutes the apparent winner was dead and the apparent loser became the winner, though he subsequently died.

The use of pet-type dogs within the dogfighting community occurs only among those using the dogfighting as a source of revenue and as a base for promoting other activities. For example, there is a dogfighting ring operating in roughly six Southwestern States which generally

conducts two to three events per week consisting of six to eight fights. Admission is \$9, gambling is against the house, liquor is sold and prostitutes are available. The untrained dogs are injected with drugs and subjected to the use of a cattle prod until driven hysterical, at which point they are turned loose upon one another.

This particular ring is highly organized and it is a question of whether or not a relationship exists with organized crime.

A convention in dogfighting parlance is a gathering of dogfighters from considerable distances for pitting of dogs. Because of the travel involved, there is a greater concentration of big people, higher gambling stakes, and more peripheral activity. As an example, a convention in Milwaukee would probably draw from New York, Pennsylvania, Florida, Tennessee, Missouri, Louisiana, Texas, Arizona, Utah, and Canada, as well as nearby States such as Illinois, Indiana, Michigan, Ohio, and Minnesota. Such conventions usually begin on Friday night and last until Sunday night. Conventions in Texas and California often draw from Mexico and dogfighters in California, Arizona, New Mexico, and Texas often travel to Mexico for dogfighting.

One must, in evaluating the present status of dogfighting in the United States, question why there has been such an increase in the frequency of dogfights, the number of people involved, and the peripheral activities. There is, of course, no single or simple answer, but the analysis must be completed to define necessary corrective steps. The following presents our opinion as to primary causative factors:

1. The weakness in State and local laws. As an example, in Illinois an individual caught in the act of fighting dogs or other animals cannot be fined more than \$200 and could be fined as little as \$3. This level of penalty is no deterrent whatever to people who gamble at least an amount equal to the maximum penalty on a single fight.

2. A tendency to relegate raids on and arrest and prosecution of dogfighters to animal control or humane officers. These individuals are not trained, experienced, qualified, or in some instances, permitted to engage in law enforcement related to gambling and other activities peripheral to the fight.

3. An almost complete lack of interest on the part of law enforcement officials in either the dogfighting or the related illegal activities. In a North Carolina raid, local folks were permitted to leave while outsiders were detained. In Florida, a group was fined \$35 each.

4. In mid-September the ADOA contacted the Jacksonville, Fla., office of the U.S. attorney. In fact, three separate attempts were made. The objective was to discuss violations of existing Federal laws, data, and evidence in possession of the ADOA, and steps to be suggested in obtaining additional evidence. The U.S. attorney's office in Jacksonville refused on three separate occasions to even converse on the telephone with our representative.

Also, in early September, the association requested a Federal grand jury investigation. We pointed out that we were prepared to present names, dates, places, and other detailed data concerning illegal gambling, prostitution—Mann Act—illegal selling of liquor, and illegal possession and use of drugs. The reply from the U.S. Department of Justice, signed by Mr. Henry Peterson, Assistant Attorney General, was absolutely incredible.

In substance, Mr. Peterson's reply stated there is no Federal law concerning dogfighting, which of course we knew, and the ADOA might want to contact local authorities in various areas. He also stated that if we had evidence of violations of Federal laws concerning prostitution, gambling, and illegal drug possession and use, we should contact the FBI and that their number is located on the inside front cover of our telephone directory. Certainly, the citizens of this country who pay Mr. Peterson's salary are entitled to some action, especially when a detailed investigation has been conducted, data prepared, and witnesses ready to testify.

I do not wish by these comments to in any way impugn the efforts of the many law enforcement people dedicated to protecting the citizens of this country. Nor do I presume to sit in judgment of Federal law enforcement. But I must, in conscience, and before this distinguished group of lawmakers, condemn most vigorously the conduct of Mr. Peterson and the U.S. attorney's office in Jacksonville, Fla.

The association supports legislation presently before this committee with only the recommendation that the penalty of \$1,000 should be increased very substantially.

In conclusion, the American Dog Owners Association respectfully requests permission to recognize in the record those members of the association who participated, sometimes at great personal risk, in our investigation. The association pays no professional salaries and the investigative and other work on this program was conducted and supported on a volunteer basis by a group of people demonstrating, in the highest sense, the humanitarian nature of man.

For the purpose of the committee members, we have attached to our statement a copy of our last newsletter which has additional information.

Mr. Chairman, once again I appreciate the opportunity on behalf of the association to make this statement to this committee.

Mr. FOLEY. Thank you very much, Mr. Wright.

I see you have attached to your statement a facsimile of advertisements which appear in various magazines advertising breeding services or other information.

Mr. WRIGHT. Yes.

Mr. FOLEY. Are there any questions of Mr. Wright or his colleagues? Did you tell us where that film was made?

Mr. WRIGHT. This film was taken near Jacksonville.

Mr. FOLEY. Near Jacksonville, Fla.

Was that part of the information you were willing to make available to the U.S. attorney's office or was it taken subsequently?

Mr. WRIGHT. No. I would have been glad to show them the film but the information we wished to make available to the U.S. attorney's office was very, very specific. The names of individuals involved, information pertaining to what we call the peripheral activities of dogfighting, and we had some recommendations for warrants that could be used to obtain additional information.

Mr. FOLEY. If it is possible for my colleagues to remain in the hearing room, we may proceed with the other witnesses and then call them all back for questioning by the committee.

If that is agreeable, we will now call on Capt. Don Lambert of the Massachusetts Society for the Prevention of Cruelty to Animals,

Framingham Center, Boston, Mass. He will be accompanied by Officer William Curran and Mr. Richard Knapp.

Before you begin your testimony, Captain Lambert, do you have comments concerning the attitude of the U.S. attorney's office in Jacksonville and the Attorney General's office in Washington?

I shall instruct the staff to request the opinions of the Justice Department on these sections dealing specifically with dog and other animal fighting in this legislation.

Mr. MURRAY. Mr. Chairman, the committee has already requested a report. We have not received an answer yet. [See p. 241.]

Mr. WEST. We have asked them to expedite it.

Mr. FOLEY. Captain Lambert.

STATEMENT OF CAPT. DON LAMBERT, MASSACHUSETTS SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, FRAMINGTON CENTER, BOSTON, MASS.; ACCOMPANIED BY RICHARD KNAPP

Captain LAMBERT. Although dogfighting activity in the United States has always existed, it has increased significantly in the past few years. Many States including Massachusetts presently have statutes which, if enforced, could adequately deal with this cruel practice, contrary to what some recent news articles report.

The news accounts have alerted the public to the problem but they have also alerted those involved and made enforcement more difficult. Some of those now claiming to have information of dogfighting activities have to my knowledge never contacted law enforcement officials in Massachusetts or any other New England State, but instead have related their information to the news media.

This has created doubt in my mind and others, as to their sincerity or real purpose. The failure of some law enforcement officials to admit they are actively engaged in investigating these activities has added fuel to the fire by creating the impression it is being covered up. Although recent articles in the news media point to this possibility in some areas of the country, it is not necessarily true everywhere.

I do not want to minimize what I recognize is a serious problem, but some of the recent news accounts I have read are absurd. Just this past week I read an article which reported than 5,000 dogfights are held each week in the United States. This would mean an average of 100 fights each week in each State. Obviously, this is a gross exaggeration.

Some of the reports of our recent arrest of dogfighters in Massachusetts could lead the public to believe that those involved merely received a slap on the wrist. The actual facts are that in addition to the \$875 in fines they received, a year suspended jail sentence, and 2 years probation, the judge also warned them that any involvement with each other or other dogfighting activities during their probation would result in their immediate incarceration. Also, 27 pit bulldogs and various fighting equipment were forfeited. This in effect has put these individuals completely out of business.

I would like to comment at this time that I would urge that any Federal legislation spell out the possibility of seizing the animals and the equipment. Without the animals, they can't fight them. I think this is an important aspect of any action that is taken. The fines alone will not do it.

Another person employed as a dog officer in a large Rhode Island city was also convicted and fined \$700 and given a suspended jail sentence. He was suspended from his job and his case is presently under appeal.

The evidence which led to this arrest and conviction was obtained by one of our officers working undercover—Mr. Knapp sitting beside me. He worked for 14 months in conjunction with the Massachusetts State Police and Rhode Island S.P.C.A. officials. The information compiled by this officer during his investigation revealed dog fighting takes place not only in the United States but Canada and Mexico as well. The information has not been made available to the news media but to law enforcement officers in other States.

I must admit however, that some of them do not appear to be taking any action. In fact at one point during our investigation I spoke by telephone with a sergeant of a State police agency in another State and informed him of a fight I knew was scheduled the following day including the location which I admitted I was not absolutely sure of. He was skeptical of this location as a possible site and finally asked me, "What is it to you anyway?" The following day our undercover officer, Mr. Knapp, did attend the fight at the location I had suspected. At this time, for reasons I do not care to divulge, I'm reluctant to name this State.

I have here photos, treadmill, and so-called breaking sticks which were seized at the time of our raid for your inspection.

The following are excerpts from our undercover investigator's report of conversations which took place in his presence:

Everyone agreed not to go to Canada again except Pete. The guys in Canada use two-headed axes to get rid of their curs. Joe explained how we just hang them around here or tape their mouth shut and pit them against an aggressive dog.

Jim told me that if I really wanted a good fighter I should get an adult dog bred in Texas. This is where he gets his dogs. He said he could order me a really good one for \$500, which is what he usually pays.

Last week Jim rolled five one-year old pups. All the pups proved themselves except a bitch. Jim said he would tape up her mouth and pit her with Otis. He said he would rather let Otis have a quick kill for practice rather than give the bitch away thereby losing the money spent on food for her to this point.

We then exchanged derogatory remarks about these S.P.C.A. guys and what right they had to bust a dogfight. He said it was probably because the dogs usually fight to the death and even if the two dogs in the fight survived the losing dog would be shot because it would be a useless dog now.

The following are excerpts from dogfight magazines:

Texas. May 28, 1972, the big day has come and gone, and a big day it was. I met so many newcomers, I could never start to call their names: 3 from Washington, 6 from California, 10 from Mississippi, 2 plus from Louisiana, 9 from Oklahoma, 2 plus from Florida, 2 plus from Mexico, and 2 plus from New Mexico.

There were many more fanciers from out of State whose names fail me at this time. Texas turned out strong to visit with all the out-of-State fanciers. It was the biggest crowd I had the pleasure of seeing at one show.

Editor's note concerning Texas fight: The Editor has heard, later, that when McCaw got his bitch home he discovered she had a broken jaw. Seems it had been broken once before and in healing, left an air bubble, and it came apart at this same air bubble, according to the veterinarian.

California. This was a good fight between two strong, hard biting dogs. Tuffy never recovered. He will be remembered as a dead game dog who fought until he could not move and ran out of air and legs but not heart. Barney has three good wins now and will be open to match again when he heals up.

Florida. February 23, 1974, 11 matches, 400 people in attendance.

Pennsylvania. The matches saw the debut of 6, out of the 12 participants, matching a dog for the very first time, and as to be expected not all of the dogs were of first class quality and some of them weren't in top flight condition, but it was clear that they all did their best and are to be congratulated for taking that long hard first step. I'm sure they all learned something and win or lose will be heard from again. L. Jay W. promoted the matches and did a good job getting the newcomers matched as evenly as possible.

Our sport is growing fast and we need these newcomers to keep it going, so let's all give them the encouragement and help they want and need.

I would like to make a comment.

One of the bills you have before you is to ban the mailing of these magazines, shipping them through the mail. I question the wisdom of this, because I don't think, no matter how hard we try, we are going to stop this so-called sport completely. In the magazines when they are obtainable by law enforcement groups, it is valuable for information.

Based on the evidence presented it is obvious that participants in this so-called sport frequently cross State boundaries. This fact would seem to indicate the need to enact Federal legislation.

Legislation making various aspects of dogfighting a Federal offense may sound impressive to the public, but will have little effect, unless specific means of implementation and enforcement are provided for.

I ask you gentlemen to recognize that fact. I feel that many times we have had laws passed and we haven't followed them up with the implementation and enforcement.

I will give you Richard Knapp.

STATEMENT OF RICHARD W. KNAPP, EXECUTIVE DIRECTOR, HUMANE SOCIETY, CHARLESTON, W. VA.

Mr. KNAPP. My name is Richard W. Knapp. Presently I am the executive director of the Charleston, W. Va., Humane Association.

I became involved in dogfighting activities in February of 1973. At that time I was a law enforcement agent for the Massachusetts SPCA. I was assigned to undercover work and became closely affiliated with the most prominent dogfighter in New England. That which I know of dogfighting has been told to me by that person, his friends, or that which I have witnessed.

The dog most commonly used for dog fights is the American pit bull terrier. When trained, this dog will fight any animal and it will fight to the death. A great deal of training is necessary to make one's dog a good fighter. If a dog survives or rather wins three matches, it is considered a champion and is valued at between \$1,000 and \$3,000. Any siblings of the champion are valued at between \$500 and \$1,000. These dogs can begin training at practically any age.

I have seen a littler of pups 4 months old provoked into fighting with each other together in one cage. Severe nose and leg lacerations were received by the pups. This particular event was staged by my affiliate for the amusement of visiting out-of-State dog fanciers as dog-fighters are called.

At 6 months old, these pups will begin intensive training for an organized dogfight. Sometimes stray cats or maybe even the neighbor's pet will be thrown into the face of one of these dogs. The dog will instinctively fight to protect itself. A cat is the chosen victim because it

is an easy kill for the dog, and will allow him the taste of blood and a feel for victory.

As any athlete, the pit bull terrier must also condition his muscles. This is done in a few ways. If the owner lives in the country, he may put the dog on a leash and jog or walk a couple of miles each day with the dog, timely increasing the distance to 10 miles a day. Other country fanciers may place the dog on a longer leash, and have the animal run beside his motor vehicle on a secluded back road. The more affluent dogfighter will own a treadmill on which to condition his dog. This device you see on exhibition is an example of one and may cost approximately \$200. Newer models will cost \$500 or more dollars.

Another type of treadmill utilized by these men is a circular wheel pivoted horizontally on an axis that allows the wheel to rotate freely.

These devices are simply operated by the dog affixed to a harness and running in place. A cat, raccoon, horsehide, or even a woman's wig scented with blood positioned in front of the dog but out of his reach will provoke the dog to run. A time table of duration in relation to days in training was published in one of the dogfighter's magazines for treadmill training.

In some cases, while on the treadmill, a 5- to 10-pound barbell will be taped in the dog's mouth, and some fanciers believe this will strengthen the animal's jaws. Other dogfighters feel that "either they have got it or they don't. A barbell won't help develop their bite."

If at 1 year old a dog does not show potential in a roll, a dog is commonly called "rolls." Rolls may last from 5 minutes to 30 minutes. It is in this time the dog will demonstrate whether or not he has the potential to kill. The two dogs are young and their bites produce small punctures and incisions. It will take eight more months for these dogs to develop large enough teeth and jowls that will gouge their opponent enough to maim or kill him.

If at 1 year old a dog does not show potential in a roll, a dog is considered a cur or useless. In one State they may shoot him. In another State they would hang this dog, and elsewhere they use an axe and hack off his head. The people whom I associated with would tape the dog's jaws shut and pit him against another dog to give the latter dog some practice and to kill the dog that didn't want to fight.

Between 18 months and 2 years old, the dog is ready for his first match. The owner will call other fanciers and announce that he has a dog that will kill all others in his weight class. Word will spread throughout the country via telephone. Within a week or so, someone will accept his challenge. These two men will now decide on where they want the fight, when they want it, who the referee will be, what rules to follow, and how much they want to bet. The first bet will be the cost of the purchase of the dog. Any other wagering between these two dogfighters will continue up to and even during the match, always increasing the sum. Not long ago in one State a certain individual won \$12,000.

In New England the dogfights are usually governed by Cajun rules. Each dog has to be weighed in on his exact weight as determined by a contract. A forfeiture from \$50 to \$100, depending on the contract, may ensue, if one contestant is a quarter of a pound overweight. If one contestant is overweight, the opposing owner may collect the forfeiture and call the match, or he may collect the forfeiture, raise the odds, and continue the match.

Before the dogs are weighed, the owners will wash their opponent's dog to remove any poisons that the owner may have coated his dog with. The owners now take their dogs into the pit, a square ring bordered by wood approximately 3 feet high and 10 feet square.

One owner and his dog will go to one corner of the ring, while the opponent faces in the opposite corner. The men will either squat or bend over with their dogs between their legs and gripping the skin on the sides of the dogs' necks. The referee will announce that the dogs be released and the animals crash together face on, biting and chewing. Without a bark or a whine these dogs gnaw at each other's legs and faces. If for 3 seconds these dogs stop chewing at each other, the owners must grab their respective dogs and bring them back to the corners.

Predetermined by a coin toss, one owner releases his dog first to see if it will scratch, that is to run across the ring at the other dog. If the dog does this, he has completed his scratch and the fighting begins again. When the dogs break hold again for 3 seconds it is the other man's turn to release his dog to see if it will scratch. If a dog doesn't scratch, it is a loser and will be killed.

A roll is similar to a match, the difference being time. One match I attended lasted for 2 hours 12 minutes. In a match of this length, the dogs will be so weary and lose so much blood that they will be fighting on their knees and bellies. In many matches their feet have been so severely gnawed that they cannot stand anyway. In one match I know of, one dog had a leg chewed off at the shoulder and the match still continued while the dog fought on three legs.

When it comes to the point where the dogs will bite into each other and not chew, their owners will take breaking sticks, a piece of wood the size of a doorstop, pry their jaws loose and have them scratch again. The dog that survives is the winner and they allow this dog a courtesy scratch. That is like a scratch but the other dog is now dead. The winner will hobble to it, sometimes crawl, grab the dog and drag it about the ring to the applause of the spectators.

In a match of 2 hours, the winner also usually dies that night or the next day from blood loss and overexertion.

One final note I forgot to mention is that in many States the dog-fighters are in possession of amphetamines to excite their dog before a match and barbiturates to calm the animal down after the fight has ended. These drugs are easily obtainable through the dogfighting magazines.

Mr. FOLEY. Thank you very much, Mr. Knapp.

Now, Mr. Knapp, will you remain in the hearing room while we proceed with other witnesses and call you back to the witness table for other questions?

The next witness is Mr. Frank McMahon, director of field services, Humane Society of the United States (H.S.U.S.), Washington, D.C.

STATEMENT OF FRANK J. McMAHON, DIRECTOR OF INVESTIGATIONS, THE HUMANE SOCIETY OF THE UNITED STATES, WASHINGTON, D.C.

Mr. McMAHON. Mr. Chairman and honorable members of this Agriculture Subcommittee on Livestock and Feed Grains:

My name is Frank J. McMahon. I am director of investigations for the Humane Society of the United States.

Our society is a nonprofit, national organization which for the past 20 years has dedicated itself to the prevention of cruelty to animals and to advancement of the humane ethic. Our organizational structure includes seven branch and regional offices strategically located throughout the United States. Our nationwide constituency is the largest individual membership of any national humane organization. We appreciate very much this opportunity to comment on the problems and abuses associated with the shipment of animals in commerce and the brutal so-called "sport" of dogfighting.

We would like to compliment Mr. Kyros, Mr. Foley, and Mr. Maraziti for introducing H.R. 16715, H.R. 16738, and H.R. 16799 respectively. Legislation to prohibit the viciousness of dogfighting has been needed in this country for many years. We would certainly support any of this legislation and we greatly appreciate the concern shown by the House of Representatives.

Although dogfighting is illegal in all of our 50 States—either by being specifically outlawed or as a violation of anticruelty laws—recent events have proved that individual States cannot cope with the extent and scope of this cruel activity. Under State laws, cruelty to animals is a misdemeanor and conviction usually results in small fine, rarely in any jail sentence.

Large bets are placed on dogfights; our investigators report as much as \$50,000 to \$100,000 may change hands at a major event. Powerful criminal elements are attracted to these affairs and, to this type of person, a small fine is no more than a slap on the wrist.

We know that fights take place in Florida, California, Texas, Utah, Arizona, Massachusetts, Georgia, New York, and other States. There is no question that these, definitely, are interstate operations which must be controlled by Federal law.

Many witnesses before you today will produce evidence and give testimony of the brutality of dogfights, the gambling involved in these spectacles, and other related abuses which exist in the dogfighting industry. I will welcome questions on this subject, but because of the limitation of time on testimony, I would like to concentrate my remarks on the proposed amendments.

Of the legislation before this subcommittee, the HSUS supports the approach by Mr. Foley. Many of the subjects through section 15(a) have been discussed before this subcommittee at prior hearings. These sections would make all common carriers responsible for humane animal transportation and would require proper food and water and veterinary certificates and would prevent the shipment of immature animals of certain species, and prohibit c.o.d. shipments. In the past, HSUS has urged adoption of these provisions and we are delighted to see them incorporated in Mr. Foley's bill.

We also support the approach that H.R. 16738 takes toward dogfighting. This bill is much broader than others introduced; in addition to banning the transportation of animals for this purpose, it prohibits use of the mails to promote and further this brutal and illegal industry. The Federal Government through the Post Office Department has been an unwitting dupe of the dogfighting industry for too many years.

It has been and is the position of the HSUS that neither dogfighting, nor for that matter cockfighting, could have or would have

survived and thrived this long without the active assistance of the Post Office Department. The mail service has been the lifeblood of these industries and elimination from the mails of reports and announcements of these activities is at least as important, and much easier to accomplish and enforce, than the ban on interstate transportation.

In 1959 the HSUS prepared language for a bill which would deal with the problem of dogfighting and use of the mails to further this industry. We felt that a strong expression of public policy was mandatory and stated it as follows at that time:

That the Congress finds that the exhibition of and promotion of fights and contests between dumb animals for entertainment or gambling purposes constitutes unnecessary cruelty, is beneath the dignity of man, and repugnant to ordinary decency. It is therefore declared to be the policy of the United States to prohibit Federal facilities and private facilities subject to Federal jurisdiction from aiding, abetting or encouraging such fights and contests in any way.

I have attached a copy of that proposed bill to my testimony as an exhibit, and I request that it be printed in the record of these hearings as a possible aid to the subcommittee staff members.

We think that the provisions of H.R. 16738 commencing with section 15 should be severed from the Animal Welfare Act of 1966. There are several reasons for this but the most important is the difficulty the Department of Agriculture would have with enforcement. The Department of Agriculture is trying to effectively enforce the Animal Welfare Act through its staff of veterinarians. The subject of dogfighting, however, is not so much in the realm of animal welfare as it is a despicable act of cruelty and criminality. More importantly, USDA has no powers of arrest or confiscation of animals or equipment under the Animal Welfare Act. These provisions would be an absolute necessity for successful enforcement of the act.

The enterprises to be regulated are so completely different and foreign to one another that they should be handled separately. The first merely imposes some long overdue guidelines on our legitimate air transportation industry while the second involves the absolute prohibition of a brutal and obscene "blood sport" which should have been outlawed years ago.

We would hate to see critics of this legislation—an airline president, a scientist, a veterinarian, or other business or professional people perhaps—sitting side by side with dogfight promoters in opposition to this single piece of legislation.

In addition we urge the severance from the Animal Welfare Act of section 15 so that the so-called antidogfighting bill can be broadened to include a ban on cockfighting and other brutal contests where dumb animals tear each other apart. This would not appear to be legislatively possible in an amendment to the Animal Welfare Act since the act specifically exempts birds, reptiles, and some other animals.

We also recommend that, if enforcement of H.R. 16738 is to be conducted by the USDA, a provision be made whereby the USDA could use agents of the Justice Department or FBI who are experienced in criminal activities and have the equipment needed in this type of investigation.

An example of the need for this type of qualified expertise is two prominent dogfighters who were murdered in Texas—Marty Reed and Rick Halliburton. I was told by the attorney general for the State of

Texas that the matter is under investigation. When I discussed the situation with officials of the FBI, I was informed the Bureau could not intercede because they had received no request for assistance from Texas.

I also discussed the extensive gambling connected with dogfighting and cockfighting with agents of the FBI. Again, I was told they could not intercede because the gambling was not organized, or conducted on a parimutuel basis.

Another recommendation is that a new section be added on page 9 between items (d) and (e) which would make it an equal offense for spectators and witnesses attending these barbaric spectacles.

Because several of these bills have been recently introduced and these hearings were advanced, we would like to reserve the right to make additional comments to the subcommittee before the record of the hearings is closed.

Thank you very much for allowing me to appear before you today. I will be happy to attempt to answer any questions you may have.

(The proposed bill follows:)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that the exhibition of and promotion of fights and contests between dumb animals for entertainment or gambling purposes constitutes unnecessary cruelty, is beneath the dignity of man, and repugnant to ordinary decency. It is therefore declared to be the policy of the United States to prohibit Federal facilities and private facilities subject to Federal jurisdiction from aiding, abetting or encouraging such fights and contests in any way.

SEC. 2. It shall be illegal to place in or send through the mails of the United States any printed or duplicated publication, folder, circular or other form of material which either wholly or in part promotes, furthers, encourages, advertises products for use in connection with, or in any other way aids and abets cockfighting, dogfighting, or the holding of fights or contests between any other dumb animals.

SEC. 3. That it shall be unlawful for any person to take or receive from the mails, or any express company or other common carrier, with intent to sell, distribute, circulate, or exhibit any matter or thing herein forbidden to be deposited for mailing, delivery, or carriage in interstate commerce.

SEC. 4. That the shipment or transportation in any manner or by any means whatsoever of any game cock or fighting fowl or pit dog or fighting dog from one State, Territory, or District of the United States, or place non-contiguous to but subject to the jurisdiction thereof, into any other State, Territory, or District of the United States or place non-contiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place non-contiguous to but subject to the jurisdiction thereof wherein said game cock, fighting fowl, pit dog, or fighting dog, is intended by any person interested therein to be received, possessed, exhibited, sold, or in any manner used, in violation of any law of such State, Territory, or the District of the United States or place non-contiguous to but subject to the jurisdiction thereof, is prohibited.

SEC. 5. That any person violating any of the provisions of this act shall for each offense, upon conviction thereof, be fined not more than one thousand dollars or sentenced to imprisonment at hard labor for not more than one year, or both, at the discretion of the court.

Approved:

Mr. FOLEY. Thank you very much, Mr. McMahon. We appreciate your attendance. The record will remain open for at least 10 days for any additional submissions. If you are able to remain in the hearing room, we would like to call you back with other witnesses for questioning. Thank you very much.

The next witness will be Mr. Cleveland Amory, president of the Fund for Animals, Inc., 140 West 57th Street, New York, N.Y. 10019, accompanied by Mr. Jerry Owens.

STATEMENT OF CLEVELAND AMORY, PRESIDENT, THE FUND FOR ANIMALS, INC., NEW YORK, N.Y.; ACCOMPANIED BY JERRY OWENS, PRIVATE DETECTIVE, DALLAS, TEX.

Mr. AMORY. Mr. Chairman, thank you very much for inviting us to testify. I am going to testify, if I may, without recourse to written notes except on certain instances.

I congratulate Mr. Duncan Wright of the American Dog Owners Association for calling a despicable cruelty to the public attention. It seems to me that probably of all of the matters that the Congress of the United States addressed itself to in the animal field, none is more open and shut than this one. The real problem before us, it would seem to me, is how to have (a) the right laws, and (b) the right law enforcement. The Fund for Animals, the organization of which I am president, is a national and international organization and works in very many areas of the world. We have an unusual opportunity to look at it from a perspective of the enforcement of animal laws in various parts of the country.

Unfortunately, although you have heard from the State here, Massachusetts, which has a very fine law enforcement division in the Massachusetts SPCA, Mr. Ed Blotzer, and some others, there are vast gaps where the local organizations simply would not be able to under any circumstances.

I have beside me a man shot at 2 days ago, whose apartment was raided last night, whose life is in danger right now. It seems to me, sir, that if we are going to do anything about such a dangerous and despicable, probably the worst of all cruelties, we ought to find out first what these people are like.

A man who I could not persuade to come to this table because he literally did not want the kind of threats and personal violence this man has had, wrote out something for me about these people. Dogfights, he said, occur in at least two States, Mexico and Canada. They are attended by wives, teenagers, grandmas and grandpas, and children, although this is discouraged because "kids talk." In short, it is a family sport. At large fights security is maximum. Scouts are posted, several escape routes planned, and local police boarded off if they are not in the front row betting themselves. ID cards have been issued but the tight-knit paranoid group they are, they know who should be at the fights and who should not. Several deaths by shooting are already known. The dogfights are marked by fistfights and all sorts of foul play, filing of teeth, poison, stealing of dogs themselves.

I brought along a couple of so-called rules. One of the rules, mind you this is a printed rule of this incredible occupation, to show it contains no poison. Apparently the only way they could do it was to get them to actually drink it.

The handlers shall be allowed to encourage their dogs by voice or handclapping or snapping of fingers, but must not touch the dog or use foul, dirty methods. It is a great set of rules.

Finally, should the police interfere, the referee to name the next meeting place.

I think that this man that told me one thing about it, his uncle is a dogfighter. He has known these people for a long time. He says they are not by some definition all criminals but they have wide association with the criminal element and many do have prison terms and think nothing of it. They are ruthless, they get sadistic pleasure out of it. There is big money in it. Many of them have done time.

I commend you once more for having the courage to call hearings on something that we really do not want to walk away from in these hearings and think we cannot get anything done about it.

I want to introduce briefly to you this law enforcement officer, this private investigator, who is going to tell his exact experience in trying to get prosecution to a dogfight. May I introduce to the Congressmen assembled Mr. Jerry Owens.

Mr. FOLEY. Thank you, Mr. Amory.

We will be happy to hear from you.

STATEMENT OF JERRY OWENS, PRIVATE DETECTIVE, DALLAS, TEX.

Mr. OWENS. I am Jerry Owens, private detective, Dallas, Tex., and a former deputy sheriff in Tarrant County. I can testify to the following:

May 5th, 5:30 a.m., 1974, approximately 23 vehicles, 13 being out-of-State, departed from motel 6, 5701 South Freeway, Ft. Worth, Tex., approximately 5:55 a.m. Said vehicles entered the Cue Libscomb Ranch located on Farm Road 2376, Parker County, Tex. As the caravan entered the gate they were met by other cars, pickups, and elaborate dog trailers. The entire caravan then proceeded west onto the property of the ranch. At this time I was confronted by four security guards patrolling the entrance of the ranch. I immediately departed from said location and entered the ranch from a creek, 2 miles north. At this time I followed the creek until I came to the final location of a pit bulldog fight. It was raining and foggy which made it difficult for photography. However, I could identify several local political figures. At this time bets were being placed and participants were cheering the dog fights. In fear that I would be detected by foot patrols, I left the area and contacted the Parker County Sheriff's Department and advised them of the crime. I then contacted the Texas Rangers who advised me to pull off the case because of State intelligence inside. I then contacted Constable Brown, precinct 3, Tarrant County, Tex., who assured me that he would attempt to locate officials to deter criminal activity in question.

At 3:30 p.m., FBI, Dallas, Tex., was notified of the activity but did advise that they had no jurisdiction in the matter. After all attempts to advise authorities of the crime no action was ever taken.

I can further testify of local pit fights held in Tarrant, Johnson, and Parker Counties.

I can further testify to the fact that my life has been threatened, attempts to take my life, and burglaries have resulted due to my involvement in investigation in pit bulldog fights in Texas.

Mr. AMORY. What is necessary is exactly the kind of legislation that you are trying to get enacted here, and beyond that let us not have one more case where to get legislation, say, for the wild mustang, we found the Government only had three kinds of animals, as I recall, target animals, varmints, and endangered species. Since the wild mustang couldn't be one of them, it was decided to make him a national resource and esthetic heritage. The principal problem was to protect him. The principal job was getting it enforced after we had that.

The same thing exists here. These animal crimes have dated back to the 1880's and 1890's and \$5 fine and \$10 fine and a slap on the wrist. They are not even recorded as a part of our problem today. It seems to me, to do it properly the fines must be very high. There must be a method written into whatever legislation you write that the law can and will be enforced. If not by an animal FBI, then by national animal agents. I really feel, and I speak for 63,000 volunteer members of the Fund for Animals who want to do something about this, and they don't want their hands tied.

Thank you.

Mr. FOLEY. Thank you very much.

We appreciate your appearance today, together with that of Mr. Owens. The testimony has been very helpful in these hearings. If you can remain, we will call you back with other witnesses.

The next witness will be Sheriff C. W. Porter, Cleveland County, Norman, Okla.

STATEMENT OF SHERIFF C. W. "BILL" PORTER, CLEVELAND COUNTY, NORMAN, OKLA.

Mr. FOLEY. Sheriff Porter, we are very happy to welcome you to the subcommittee.

Mr. PORTER. Mr. Chairman, members of the committee, ladies and gentlemen, thank you for the invitation to attend the subcommittee meeting.

I am especially honored since I come from a small town—the only big thing we have is just the Nation's No. 1 football team, appropriately called "the Big Red." It makes me feel good to do what I can to help further legislation to what I feel is a terrible crime—both against animals and the people. Legislation is needed to stop dogfights, because the fighting is highly organized, very mobile, and gambling is the main way of life for dogfighters. It is the most cruel and vicious activity that can be imagined. Dogfighting has not been a problem in my county while I have been sheriff.

I had two fights in one. The first and the last. I will have to disagree with Mr. Amory here about law enforcement people condoning this type of thing. They do not in my part of the country.

The dogfight which I will describe later in this statement to you was brought to my attention by one of my deputies who had received information from an undercover source. The deputy had information stating when and where the fights were to be held. This was 5 days before the actual fight. I assigned this deputy and one other deputy to watch the activity of the area of the proposed fight. The area was located in Cleveland County, 4 miles north and 5 miles east of Norman

proper. The actual area was located in an area of 15 acres which had been rented by a Donald Maloney for just this purpose. The investigation provided a letter that reported the dogfight and also served as a program, but it referred to the happening as a "coon on a log contest." This was the password. To receive any information about the dogfight you must refer to the "coon on a log contest." This was to confuse law enforcement.

Friday and Saturday, before the fight day, the area was kept under surveillance by spotters from airplanes. A pit was observed in the area. The pit was a 12 by 16 feet enclosure made from $\frac{3}{4}$ -inch plywood. The pit was 4 feet tall and on one end was a hinged gate used as an entrance for the dogs. The plywood boards were joined together by removable metal pins. The plywood boards could be stored flat in the bed of a pickup and quickly set up for fighting. Just as easily disassembled. I checked with District Attorney Preston Trimble about the illegal aspects of dogfighting and he assured me there would be strict prosecution if evidence indicated so.

I scheduled the early morning raid and called a conference with local and State law enforcement heads to apprise them of the situation and to ask their support in the raid.

On Sunday morning, after making assignments to all participating officers, I left by plane for surveillance of the area. I flew over the area and spotted 60 to 70 cars traveling under the cover of darkness on the section line road toward the target area. The traffic reminded me of a football day; the cars were bumper to bumper. I assigned seven officers to arrive from the north, which was the exit. I assigned 10 officers to approach the area from the south. This was the main entrance of the pit area.

Both groups of officers were approximately one-half mile from the pit area. I assigned two deputies to get as close to the scene as possible to spot dogfighting and gambling and my decision to start the raid depended upon the word from the deputies.

Approximately 9 a.m., I joined the officers on the ground and gave the order to start the raid. We, of course, were immediately spotted by the participants of the fight. Several people fled the area, however most stayed. The owners were identified and arrested and advised of their Miranda warning rights. I confiscated the pit and called for the Norman poundmaster to impound the two dogs. The two dogs that were fighting when we started the raid. The pit showed evidence of earlier fights. We noted large spots of blood, several patches of different colored hair and saliva dotted the walls of the pit. I advised all other participants they were free to go, after I had a list of their names and addresses. Names and addresses which I have furnished the committee.

[The list of names and addresses is held in the subcommittee files.]

You will note the many different States represented at the fight. In attendance were men, women, boys, and girls of all ages. The dogs we impounded were in terrible condition, obviously neither dog winning. We transported the dogs to a local veterinarian, where the dogs were attended. However, one of the dogs eventually died of a heart attack, resulting from fighting, as reported by the veterinarian. We arrested five people at the scene, and they were transported to the Cleveland County jail in Norman, where they were booked for cruelty to animals and gambling.

In my many years of law enforcement I have seen many bad and sad things, but this made me sick to my stomach. I know you will do something about this terrible crime.

In closing, I must apologize for some of the film I brought back here. We didn't have professional photographers. The films you see today were left abandoned at the scene in cameras, and we had them developed.

At this time, this gentleman will show you some slides. They are stills, similar to the movie you saw.

I won't make any comments unless there are questions.

Mr. FOLEY. These were all taken subsequent to the raid?

Mr. PORTER. Picked up after the raid by abandoned cameras. You will notice a list of auto tags; 14 cars left there. The owners never came back.

Mr. FOLEY. You believe these films were taken at that particular fight?

Mr. PORTER. Yes, I do, because my deputies observed them, saw the film, and said that was the fight we observed.

Mr. FOLEY. When did this fight take place?

Mr. PORTER. The 24th day of September 1972.

I might add that in this legislation they said in Oklahoma it was a misdemeanor. We tried them under the cruelty to animals statute and got a conviction. It is on appeal, but I feel the conviction will stand. We got them convicted on a felony.

Mr. FOLEY. What did the court sentence them to?

Mr. PORTER. \$500 fine. Ordered to pay the vet bill, which ran to a little over \$1,000, the costs of the case, which was a substantial fine.

There you see them biting at the foot, as this gentleman said they would do. Trying to chew it off.

Gentlemen, there is evidence I brought today. Since the case is on appeal and should it get reversed it would be a new trial, I will have to take it back to Oklahoma with me because without the evidence we wouldn't have a new trial. It will be available to the committee at any future date or this date.

Mr. FOLEY. Thank you very much. If you can remain for a few minutes, we would like to call you back with the other witnesses to join you at the witness table. Thank you for your appearance here today and the testimony you have given the subcommittee.

The last witness we have this morning is Special Agent T. "Joe" Hines, North Carolina State Bureau of Investigation, Cary, N.C., accompanied by Special Agent Michael Boulus.

**STATEMENT OF SPECIAL AGENT T. "JOE" HINES, NORTH CAROLINA
STATE BUREAU OF INVESTIGATION, CARY, N.C.; ACCOMPANIED
BY SPECIAL AGENT MICHAEL BOULUS**

Mr. HINES. Mr. Chairman, I would like to read from a prepared statement that I have here before me. Each of you should have a copy of that statement.

This is in regard to a dogfight that we had information that was to occur in North Carolina, so I will go ahead and read from this. In this statement there are 15 names of people charged as a result of this raid. I will give the people's names, where they are from, what they were charged with, and the verdicts from the court.

Information was received from a reliable source that a pit bulldog fight was to be held in Johnston County, N.C., on Easter Sunday, April 2, 1972. As a result of this information plans were formulated to raid this event and make an appropriate investigation into this matter. A group of officers from various police agencies were assembled and briefed as to the circumstances that were to happen on April 2, 1972.

As a result of our raid the following subjects were arrested. Trial results are also included.

1. Lonzo Platt, W/M, date of birth, June 3, 1932, Cobb Road, Greensboro, N.C., charged with promoting and engaging in the gambling, committing cruelty to animals, and promoting dogfighting. Guilty, \$500 fine plus costs.

2. William Henry Godwin, W/M, date of birth, March 13, 1924, Route 1, Selma, N.C., charged with conspiracy to commit cruelty to animals. Not guilty.

3. Timothy Patrick Gill, W/M, date of birth, November 21, 1947, 7 Orchard Street, Everett, Mass., charged with conspiracy to commit cruelty to animals. Guilty, \$100 fine and costs.

4. Edward Joseph Ashman, W/M, date of birth, January 27, 1945, 150 AM Street, South Boston, Mass., charged with dogfighting and conspiracy to commit cruelty to animals. Guilty, \$100 fine and costs.

5. Hewey Hicks, W/M, date of birth, September 9, 1926, Route 2, Garner, N.C., charged with conspiracy to commit cruelty to dumb animals. Not guilty.

6. Peter Wilson Sparks, W/M, date of birth, February 21, 1901, P.O. Box 716, RD 235, Stark, Fla., charged with conspiracy to commit cruelty to animals. Guilty, \$100 fine and costs.

7. Pell D. Liles, W/M, date of birth, June 22, 1930, 902 Park Avenue, Garner, N.C., charged with gambling, guilty, prayer for judgment continued.

8. Jerry Maurice Short, W/M, date of birth, August 15, 1942, Route 1, Randleman, N.C., charged with possession of gambling paraphernalia for illegal dogfighting. Guilty, \$300 fine plus costs.

9. John Wesley Gray, W/M, date of birth, March 14, 1934, 1227 Potts Street, High Point, N.C., charged with illegal dogfighting, conspiracy to commit cruelty to animals, \$200 fine plus costs.

10. Ruby Pratt, W/F, date of birth, unknown, Cobb Road, Greensboro, N.C., [wife of Lonzo Pratt], charged with conspiracy to commit cruelty to animals. Judgment—Nonsuit.

11. Glenn Cobb, W/M, date of birth, September 7, 1917, Clayton, N.C., charged with conspiracy to commit cruelty to animals. Not guilty.

12. Charles Bratton Herndon, W/M, date of birth, September 3, 1941, Route 10, Box 528, Greensboro, N.C., charged with gambling and assault on police officer. Guilty, \$200 fine plus costs.

13. David Rickey Goodwin, W/M, date of birth, unknown, Route 1, Selma, N.C. [son of William Henry Godwin], charged with conspiracy to commit cruelty to animals. Not guilty.

14. Charles Johnson, W/M, date of birth, unknown, route 1, Smithfield, N.C., charged with conspiracy to commit cruelty to animals. Not guilty.

15. Charles Johnson, W/M, date of birth, unknown, Route 1, Smithfield, N.C., [father of Charles Johnson], owner and operator of "Bat" Johnson's Barbecue, Smithfield, N.C., charged with conspiracy to commit cruelty to animals. Not guilty.

Items confiscated were surrender to the Johnston County Sheriff's Department.

1. Two metal oval tubs.
2. Two metal trash cans.
3. Eight pieces of plywood [portable pit].
4. Two oak 2 by 4, 6 feet long part of pit.
5. One piece of canvas 15 feet by 15 feet was floor to pit.
6. One oldfashioned feed scale [to weigh dogs].
7. Sixty foldup chairs.

Information was received that at a later date the remaining portion of the dogfight schedule was completed. At this continuation fight two dogs were supposed to have died as a result of injuries.

Mr. Chairman, this concludes my part of this program. The agent beside me participated as an undercover agent in this operation. My part was the coordinator of the raid prior to and after the raid. He will go into direct details of the events that led up to and including the dogfight.

Mr. FOLEY. Mr. Boulus, we are very happy to have your testimony.

STATEMENT OF MICHAEL BOULUS

Mr. BOULUS. I am Michael Boulus, senior agent of the North Carolina State Bureau of Investigation.

In the latter part of March 1972, I was assigned to infiltrate a gambling operation in which the participants were utilizing fighting dogs and placing wagers on the outcome of these fights.

Subsequently I was able, on April 1, 1972, to establish contact with the principals involved and to penetrate their operation through two subjects, Charles and Batt Johnson, residents of Johnston County, N.C.

It was through these two subjects that I was directed to the Trot Motel in Selma, N.C., in the late hours of April 1, 1972, where I met Mr. Lonzo Pratt, the promoter of the dogfight which was to take place the next day. When I arrived at the Trot Motel I went to a room where I met Mr. Pratt. Present here also were at least 10 other persons. Alcohol was being consumed on these premises at this time and there was a great deal of loud talk and wagering in progress. I also noted that there was at least one large dog in a cage near the door.

Mr. Pratt proceeded at that point to interrogate me as to my motives for being there, explaining all that time that he needed to take such precautions since he had inside knowledge that law enforcement officials would try to disrupt the planned spectacle. Subsequently I was able to satisfy Mr. Pratt as to my motives after 30 minutes' conversation, during which time he found it necessary to examine the contents of my wallet and question me with regard to my prior statewide associations and personal contacts.

I was told by Mr. Pratt that a caravan would leave a certain cafe in Selma, N.C., near the Trot Motel at dawn on Easter Sunday, April

2, 1972. Further, that if I wished to join this party I should be there at this time.

At six o'clock in the early morning of April 2d I was present with approximately 80 other persons at the assigned cafe on Highway 301 north of Selma. I proceeded with most of these persons in a caravan approximately 15 miles to a site off Highway 42 south of Clayton, N.C., on the back section of a farm belonging to Harry Godwin. At this point the caravan led by Mr. Pratt stopped and a wooden arena was constructed out of prefabricated hinged, wooden sections. This square arena measured approximately 12 feet on each side. Mrs. Ruby Pratt, the wife of Lonzo Pratt, and Jerry Maurice Short were renting chairs and selling food at this site. Other persons present at the site were Chuck Herndon, Ricky Godwin, Harry Godwin, Peter Sparks, Edward Ashman, Timothy Patrick Gill, Pell D. Liles, John Wesley Grey, and Glen Cobb.

Prior to the match's beginning, I paid a \$20 admission to one of two cashiers and received a numbered slip giving me a chance at a drawing for \$50.

The fighting commenced with a match between two 45-pound dogs at approximately 9 a.m. The two animals were faced at far ends of the arena and released. They met in the center and fought for nearly 1 hour, biting and shaking each other. The second match followed shortly thereafter and was conducted in much the same manner.

During the progress of the two matches I witnessed, the spectators were consuming alcoholic beverages while standing or sitting around the arena on the ground and atop chairs. The group as a whole was highly intoxicated both by the alcohol and by the spectacle of seeing the animals torn and bleeding over their entire bodies. The crowd, consisting of both men and women, were heard to cast bets on the dogs across the arena as the matches proceeded. The wagers were most often in the range of \$20 to \$25 and were by verbal agreement.

The dogs were separated in each case prior to one gaining a deadly advantage. I was told that the last match of the day would be one to the death fought between two dogs. I was led to believe that one of these animals would be one entered by Lonzo Pratt.

Prior to the beginning of the third match, other law enforcement officers arrived and arrests were made.

Thank you.

Mr. FOLEY. Thank you very much.

At this time, that concludes the testimony scheduled for this morning. I wonder if we could ask all the witnesses who testified previously to come forward and sit at the witness table. Perhaps we could ask those who have not testified to give up seats in the front row to the witnesses and take those seats.

We are very happy this morning to be joined by the chairman of the full committee, Mr. Poage of Texas.

Congressman Poage, do you have any questions at this time?

Mr. POAGE. No, Mr. Chairman. Thank you.

Mr. FOLEY. Are there questions from other members?

[No response.]

Mr. FOLEY. Mr. Boulus, Mr. Hines, I glanced through the compilation of the statutes of North Carolina and they have apparently a statute which prohibits management or receipt of admissions money

or encouragement to be used as a place for fighting. It does not seem to prohibit specifically the actual engaging in dogfights by owners and others. Is that correct? I notice that most of the prosecutions which you mentioned in the State were for conspiracy, cruelty to animals. There is according to my records a specific statute in North Carolina, 14362, which apparently prohibits keeping a place where dog or other animals fighting is permitted, or receiving admissions, and so on. In other words, you don't have a specific statute, as I gather it, that prohibits people from fighting animals except under the general prohibition, including animals.

Mr. HINES. We have a statute that makes it illegal to fight dogs, cocks, bulls, bears, and so forth.

Mr. FOLEY. Does this statute, that I have stated to be a misdemeanor, carry a penalty of up to \$500 or up to 6 months in prison?

Mr. HINES. Yes, sir.

Mr. FOLEY. To your knowledge has any court convicted on this offense; that is, actually sentenced the defendant to a jail term?

Mr. HINES. To my knowledge I know of no other case where anyone has been charged in North Carolina with a dogfight violation.

Mr. FOLEY. What?

Mr. HINES. To my knowledge, no one has been charged with illegal dogfighting in North Carolina up to this time.

Mr. FOLEY. Your records don't disclose any specific charge of this statute; is that correct?

Mr. HINES. Not dogfighting. We charged a lot of people with cockfighting.

Mr. FOLEY. Most of these dispositions that you reported seem to be by fine.

Mr. HINES. All received a fine and costs and there were no actual sentences imposed.

Mr. FOLEY. Does the statute under which they were charged, either cruelty to animals or conspiracy to commit cruelty to animals, carry a potential jail sentence in North Carolina?

Mr. HINES. Yes, sir; as a misdemeanor.

Mr. FOLEY. How long is the average jail sentence.

Mr. HINES. Generally 6 months.

Mr. FOLEY. This subcommittee is presented with both a question of policy and a question of how to implement any Federal involvement in the retardation of this vicious activity.

Sheriff Porter, Captain Lambert suggested, I believe, that you questioned the effectiveness and advisability of prohibiting the use of the mails as an enforcement tool?

Captain LAMBERT. I believe that it can be cut down tremendously. Like any other illegal activity it will never be cured completely. There is a possibility of being able to obtain this material and it is very helpful to law enforcement when it can be obtained.

Mr. FOLEY. It is also helpful to dogfighting?

Captain LAMBERT. Mostly the reports are after the fights have taken place.

Mr. FOLEY. How would that assist the law enforcement officials if these publications discuss events after the fact?

Captain LAMBERT. Names of people, places. It has been helpful—very helpful.

Mr. FOLEY. Do you personally favor some Federal involvement in this area in terms of law enforcement?

Captain LAMBERT. Definitely. I think it is important to have implementation, as you stated, and I think it is important that the seizure of the dogs is provided for in the statutes that you have printed. In Massachusetts it fails to mention the seizure of animals and the forfeiture proceedings statutes in the statement that I have here. I think it is very important many of these men that raise these dogs for years and, like any other type of dog, should be subject to fine.

The best way to put them out of business is to take these dogs away.

Mr. FOLEY. This is a helpful suggestion. I am personally concerned that the fines, particularly those below the magnitude of the gambling or other interests, would not be a very effective law-enforcement tool or deterrent. I must add, although the Chair should not comment on the disposition of matters before the courts, and not knowing all the facts, that it would also be helpful if the courts, on conviction, provided jail sentence for those convicted.

Mr. BOULUS. We have an example of some of the literature mailed in the case of our investigation in North Carolina. It sets out the facilities, time and place, sponsors, and map that you might utilize in order to get to the approximate place where the fight was to be held. If you would like to have these—

Mr. FOLEY. Yes; we would like to have that as an exhibit. It will be included in the record file.

Mr. BOULUS. I might add, it includes Boston, Mass., New York, Virginia, Florida, Georgia, Tennessee, all on the map, showing persons in this area how to reach the site of the event.

Mr. FOLEY. Was this mailed in advance?

Mr. BOULUS. Yes, sir, it was mailed in advance.

Mr. FOLEY. Mr. Amory?

Mr. AMORY. Mr. Chairman, something that might be of some assistance to this committee, we have found in New York State that the average police officer, average law-enforcement officer, does not really believe, does not know his so-called animal code, and does not really believe crimes against animals are against the law.

In view of that, Attorney General Lefkowitz of New York State recently appointed an advisory committee on animals, representing the largest organizations in New York State, to literally be responsible for seeing that law-enforcement agencies throughout New York State do know about crimes about animals. If nothing else, it seems to me that the evidence that we have, that is really quite large, policemen will not, or will not because they don't want to or don't know about it, in some cases, it is against the law. I think that that is why I welcome so much attention to this. I think now the law-enforcement agency of the local State would know it is against the law. How this can be implemented on a national scale without a Federal bureau of animal investigation, I would welcome.

Mr. FOLEY. Thank you very much.

Mr. WRIGHT. Mr. Chairman, I would like to take just a second to comment on the steps that might be taken regarding the mailing of dogfighting magazines. We would take the position that we would hope the Congress would undertake whatever was necessary to prohibit the transmission of any information whatsoever regarding dogfighting through the U.S. mails.

If this, in fact, puts their magazines out of business and they then resurface at some time in the future, we have another infiltration job to acquire those new issues and go through the same procedure again. I don't believe the point that these magazines, because they are a source of information, should be permitted to continue to exist.

Mr. FOLEY. Thank you, Mr. Wright.

Has there been any evidence, and I ask this question generally of any witnesses, of a lack of willingness on the part of State and local prosecutors to cooperate in prosecuting cases of dogfighting or animal fighting?

Mr. AMORY. A terrific problem. Mr. Owens can say.

Mr. OWENS. I found most of the district attorneys involved, with most of them the State law does not apply. In Texas we have a very weak and poor law, and I think this year the old version of the article 1374, Animal Cruelty Act, they did insert the fighting of animals. was against the law, but only if the animal didn't belong to you. I think that is the way the law reads. It is actually a weak law. The district attorneys do have the defense in this area that they cannot really prosecute because the law is so weak.

Mr. FOLEY. In your view, then, the main complaint of the district attorneys has been they didn't have strong, effective State statutes on which to base prosecutions?

Mr. OWENS. Yes, sir, that is right.

Mr. FOLEY. To my knowledge, almost all the statutes do provide jail terms for violations. Has there been, to anyone's knowledge, a jail sentence handed for convictions resulting from animal fighting violations?

Mr. McMAHON. Mr. Foley, I am with the Humane Society now for 14 years and I don't know of any jail sentence applied for dogfighting. Also, on the law enforcement thing, 2 weeks ago I was in San Antonio and I drove by one of the main exhibitors, if you want to call them that, Morris Carver, and I had reports from the San Antonio authorities that they knew of no dogfighting in their area.

I drove a quarter of a mile down the road and stepped into a little country store and asked the people there if they knew where I could buy a puppy. They said the man down the street, Carver, has puppies but he won't sell them. He just fights them.

There I was, an absolute stranger, and it does not seem this is a difficult activity to uncover if someone wants to take the time and effort to do it.

Mr. FOLEY. I can not recall which witness it was, perhaps Mr. Wright, who suggested that restriction of the information regarding dogfighting through publication was perhaps a more effective way of curbing the practice than the control of interstate shipment. Mr. Mattin, our general counsel, is here. He has been working on this problem since 1958 or 1959. We made a similar suggestion several years ago. Although I appreciate Mr. Lambert's idea, I think the major dogfighters will continue to obtain their information by telephone. It is the run of the mill grassroots participant who depends on the magazine for information.

Mr. KNAPP. As I stated in my report, the gentlemen I was affiliated with organized their dogfights via telephone. In New England the magazine is published out of New York, is much more secretive, many

faces are scratched out in the magazine because of the secrecy, and all fights are organized by telephone.

If we did eliminate the magazine, then it is going to be a rougher job for us to curb dogfighting nationally.

Mr. FOLEY. Captain?

Captain LAMBERT. You speak of jail sentences. I want to point out we have a dog officer under a year's jail sentence under appeal. The other two men did receive suspended jail sentences. It has been jail sentences meted out in Massachusetts.

Mr. FOLEY. Is it correct to say that the tendency on the part of the courts, when sentencing offenders, has been to use the fine rather than a suspended or actual jail sentence?

Captain LAMBERT. I would agree with that. Again, I say the fine is irrelevant. The important thing is to stress the dogs and equipment.

Mr. FOLEY. The forfeiture?

Captain LAMBERT. Right.

Mr. WRIGHT. I think we have experienced a great deal of difficulty. This is getting back to the local authorities in two areas. First, the lack of interest in some other areas involved. And one of our field people working in Illinois, for example, was having some difficulty locating the residence of a well-known dogfighter. Because of previous experience in other parts of the country, he felt this was a shot and he would go to the local police. He went to the local police department and asked if they knew where this man who fought dogs was, and they gave him precise directions.

Mr. FOLEY. Actually, the police department provided that?

Mr. WRIGHT. In the police station, up to the sergeant's desk, where does this man live, and got precise directions. It is very difficult to get people of that nature to assist in the prosecution.

Mr. FOLEY. Mr. McMahon, you suggested in your testimony that you thought it would be preferable to have a Federal agency rather than the Secretary of Agriculture responsible for this proposed enforcement area.

Did you have in mind a specific agency? Is it your assumption it should be placed within the jurisdiction of the FBI?

Mr. McMAHON. No, I don't have any specific agency. I leave that up to the wisdom of the committee. With what I have seen, this is a very, very rough group of people we are dealing with. Down in Texas, we have a couple unsolved murders, and one of the head dogfighters down there was charged with murder back in 1964 and never brought to trial. I cannot see the Department of Agriculture veterinarians, trained in a completely different type of thing, handling the welfare of animals, tackling these organized criminals, is what it amounts to. You have got to have enforcement in the hands of people who are actually law enforcement officers rather than veterinarians. That was my point.

Mr. FOLEY. Could the statute be written to require the assistance and support of the other Federal agencies?

Mr. McMAHON. That was my suggestion. If it remained in Agriculture, they have the ability to call on other agencies that would have more practical experience in criminal matters.

Mr. AMORY. Under the Department of Justice?

Mr. FOLEY. It could, but that the jurisdiction of the Agriculture Committee would be inappropriate.

We have a problem here of jurisdiction; and if it were to be made part of the criminal statutes of the States, the proposed legislation more appropriately would go to the Judiciary Committee.

That is a matter that the subcommittee will have to consider at such time as it reviews the entire legislation.

Do any of the witnesses know to what extent the existing State laws provide for forfeiture of the animals or equipment associated with the fighting?

Mr. BLOTZER. Mr. Foley, in Pennsylvania, the law provides for forfeiture. That has good laws. I might comment on a couple of statements you made earlier. Possibly 200 cases in the past couple years, and only one went to jail. That was abandonment of three shepherd dogs. What you are going to propose here is good if they are stiff enough, but that won't solve the problem. The fines are going to be inconsequential.

The main thing will be jail terms and specify maximum and minimum. If there is minimum specified, it goes to rockbottom. I share the thoughts of all the other witnesses, that a lot of these people, dog cases or animal cases, are low priority.

Two years ago we made a raid on a dogfight, which was not successful. A magistrate didn't know his job, and didn't know that he had the right to search and seizure. He didn't know he had the authority for this. He was 1 hour late for his job, and I had to organize this raid in about an hours time. He said when he got there, "I am not going to give you a search and seizure warrant. I will give that to the Pittsburgh Police Department."

By this time the fight is all over and they are gone. They take a lakadaisical attitude. One night, talking to us, he said he had to leave his home in a hurry, didn't have a chance to say goodbye to his family. He has not seen his wife for a month. He had to leave Chicago immediately for another State for his own welfare. This man's life is in jeopardy as a witness here today.

Mr. FOLEY. Thank you very much. We appreciate that. We will note for the record that there is a Federal statute making intimidation of witnesses before congressional committees a Federal crime.

To what extent did the witness feel that the statute should deter attendance by spectators, as distinguished from the actual participation?

Captain LAMBERT. I think that the spectators should have just as stiff a penalty as the participants. Many times on raids of this sort whether it be dogfighting or cockfighting, the people there will all claim that they don't know who owns the animals. I think that they are just as much a part many times and actually own the animals but don't admit. They are just as much a part, and the penalty should be pretty stiff for those who are present.

Mr. KNAPP. An example of that is the gentleman from North Carolina who mentioned some names of individuals from Massachusetts. I have 2 years later accompanied these gentlemen to another State to a dogfight where they had their own dogs. At the fight he raided, three were only witnesses.

Mr. HINES. Mr. Chairman, at this time they told us that they had come to North Carolina to see the dogs fight and were interested in buying dogs. Apparently they did.

Mr. FOLEY. I know that many of the State laws do not affect the participants or observers of dogfighting, but only those who actually participate in the management of actual fighting of dogs. Yet, it must be remembered that the owners are closely connected with the fighting itself.

Is there any disagreement among the witnesses that penalties, either under State or Federal law, should be applied to those who actually participate as observers, other than undercover agents?

Mr. AMORY. It would be very hard to make jail stick for them. If you could associate a stiff fine for going or actually promoting it or doing it, a jail term, it would seem to me, without having that much knowledge of law, is possible.

Mr. KNAPP. I think some discretion should be used for the children in attendance, but I think even possibly a stiffer fine for parents who allow this.

Mr. FOLEY. Technically speaking, if it is an illegal contest or activity in the State, those parents who bring children are potentially subject to the laws prohibiting anyone who contributes to the delinquency of a minor child. Those laws exist in all the States of the Union, and could be a basis of prosecution.

Yes, Mr. Wright.

Mr. WRIGHT. One of the problems with not getting the so-called observers is that in an event where you have six or eight matches and where these matches last on an average 1½ hours, at the time that a precise raid takes place, what you are going to be able to do is arrest the two people who are fighting those particular dogs, and you might end up with a situation where the other people who owned the dogs in the other six fights who are just as guilty as the others get off scot-free. We think the observers should be hit very hard.

Mr. FOLEY. Mr. Zwach, do you have any questions?

Mr. ZWACH. No questions.

Mr. FOLEY. One of the problems with which I think the subcommittee will be faced is the limited Federal basis of jurisdiction in this area. This is a type of crime which is classically within the accepted police powers of the States relating to the health, welfare, and safety of their citizens. Therefore, Federal jurisdiction probably would be based upon the commerce clause and moving in interstate commerce for the purpose of committing acts in violation of State law or appropriate commerce activities. Unfortunately, it is often difficult to establish that the person moved in interstate commerce with that intent.

We do have other statutes on the books now that do prohibit similar activity; for example, the interstate transmission of gambling information. Those who move in interstate commerce for the purpose of engaging in certain criminal acts, including fomenting riots or engaging in racketeering, engage in Federal crimes; but the subcommittee will have to examine these Federal precedents with regard to the legislation before us.

As I said earlier, we are concerned about the preemption issue. I think I speak for the entire subcommittee in suggesting that we have

no desire to limit the role of local and State governments in enforcing existing local or State laws.

On behalf of the subcommittee, I want to say how much we appreciate the attendance and testimony of all the witnesses today. Many came from great distance at personal inconvenience and risk. Under the circumstances it has been important to have firsthand testimony as to the existence and nature of this activity.

Speaking for the Chair alone, I think that there is hardly any activity that I know of, with relation to animals, that is more disgusting and shocking than the deliberate, calculated, and organized fighting of animals. It is brutalizing, dehumanizing, and as witnesses have testified almost naturally draws around it other criminal activities. I think it is something that justifies Federal concern and possible Federal assistance to local law enforcement. As a former State law enforcement official, I hope we can develop a stronger sense of responsibility in many of the States and localities in stamping out this criminal conduct. It is illegal in every State of the Union.

I don't say this in blanket criticism of law enforcement at State laws. We have had examples here today of law enforcement officers who have come forward and demonstrated their concern and their strong action to prevent this in their own jurisdictions.

Often law enforcement officials are under heavy pressure to enforce a variety of criminal statutes with insufficient manpower and insufficient resources to do that. I know that from experience. When faced with an extraordinary range of criminal investigation activity, it is very difficult sometimes to give appropriate attention to crimes against animals, even though they involve a very serious offense against the sensibilities, conscience, and ethics of the American people.

I would hope that great attention can be given at both the local level and Federal level to stamping this activity out.

Are there any other comments that the witnesses would like to make before the hearings are concluded?

If not, we will reconvene the subcommittee for further testimony on Wednesday, at 10 o'clock, when we will hear from Members of Congress and other witnesses. In the meantime, the hearing record will remain open for a period of 10 days to receive other submissions.

Again, we extend our sincere appreciation to those in attendance. The subcommittee will stand adjourned.

[Whereupon, at 12:10 p.m., the subcommittee was adjourned, to reconvene at 10 a.m., Wednesday, October 2, 1974.]

ANIMAL WELFARE ACT AMENDMENTS OF 1974

WEDNESDAY, OCTOBER 2, 1974

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON LIVESTOCK AND GRAINS
OF THE COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:10 a.m., in room 1301, Longworth House Office Building, Hon. Thomas S. Foley (chairman of the subcommittee) presiding.

Present: Representatives Foley, Bergland, Denholm, Litton, and Zwach.

Hyde H. Murray, associate counsel; John Rainbolt, associate counsel; Glenda L. Temple, staff assistant.

Mr. FOLEY. The Subcommittee on Livestock and Grains will come to order.

The subcommittee meets this morning for hearings regarding H.R. 16738 and other legislation relating to Animal Welfare Act amendments.

We are happy to welcome to the subcommittee as our first witness Hon. Harrison Williams, a U.S. Senator from the State of New Jersey.

Senator Williams, it is a pleasure to have the benefit of your testimony this morning.

STATEMENT OF HON. HARRISON A. WILLIAMS, JR., A U.S. SENATOR FROM THE STATE OF NEW JERSEY

Senator WILLIAMS. Thank you very much, Congressman Foley, and I appreciate very much being the first witness because of all the conflicts, and appreciate coming on, even though I understand there is a quorum call going on in the House. So I will be very brief.

As you know, I am here in support of legislation which would make dogfighting illegal by Federal statute. I introduced a bill on September 11 in the Senate which would prohibit the shipment in interstate commerce of dogs for the purpose of fighting. I certainly commend your leadership in this most humane effort, and am proud and honored to join you in it.

I firmly believe that such legislation is necessary to halt this deplorable activity, that action on it in this session of Congress is essential to prevent the further spread of this dastardly business.

Several weeks ago, returning from conference on the west coast, during the flight back at night, I was grateful for the fact that one of the passengers recognized me and wanted to speak to me. I did speak to him at length coming across the country. He had been conducting an

investigation of dogfighting for the past 3 years, and he told me what he had learned.

He had infiltrated dogfight rings and had attended secret matches around the country. He had compiled an impressive file of evidence indicating that this co-called sport is highly organized and flourishing. This is a fact from coast to coast.

When I returned to Washington that morning I went into the office. It was my first order of business to say we have to join Congressman Foley in this fight. Before I even had suggested this, however, my legislative assistant said, I want to propose a bill dealing with dogfighting. He had read the New York Times article which had been a couple of weeks earlier which I had. So we drafted our legislation. It has been introduced. I am not the most prolific introducer of legislation, and yet I am not the most timid either. I have never had a piece of legislation receive this kind of instant reaction among Members, and then in the public. The mail has been voluminous. My colleagues have joined in requesting the opportunity to be cosponsors.

This session we can do it. I know we can do it because it just touches anybody who knows about it. This dogfighting is bestial business, and we have the tools to deal effectively with it.

Mr. Chairman, I would like to include my full statement if I might in the record.

Mr. FOLEY. Your statement will be received in full, Senator.

Senator WILLIAMS. I appreciate that, and in the statement our office has researched this dogfighting activity back to Emperor Lucullus. The history of dogfighting started in the days of the Roman Empire, and it rose and fell as an activity of man. Now it is on the rise again.

I think the legislation that I have introduced is a bullet shot at the practice. It deals with dogfighting, and effectively reaches it through the interstate commerce aspects. We all know that States prohibit this through law, but evidently it has not been effective at the State level because the practice continues.

So I certainly hope that this committee, under your leadership, will be able to report a bill that will get to the House floor. I know that on the Senate side the chairman of the committee that has the bill there, Senator Magnuson, is a most humane man, a good man, and he has legislation. When he moves in, legislation moves out. So I am hopeful that this can be accomplished this year.

I appreciate it.

Mr. FOLEY. Thank you very much, Senator.

We are very grateful to you for coming today to present your views on this legislation. I know that you are a distinguished committee chairman in the other body and that you have commitments this morning before your own committee.

I want to ask you, if I may, just one or two very brief questions for the record.

Your intention, I gather, by this legislation is to supplement rather than to replace existing State laws prohibiting dogfighting and cruelty to animals.

Is that correct?

Senator WILLIAMS. Yes. There is no preemption at all in our bill, and certainly the States can deal with it in their ways, too. And I think perhaps the fact that the national attention has been focused, there will be a more alert State administration of their own State laws.

Mr. FOLEY. Do you feel that it is necessary, however, to provide additional enforcement authority on the Federal side in order to supplement the States' ability to curb this practice?

Senator WILLIAMS. Exactly that.

Mr. FOLEY. Thank you very much, Senator. Again, we are very grateful to you for taking time to appear this morning.

The subcommittee will stand in recess briefly while we answer a quorum call.

[A brief recess was taken.]

[The prepared statement of Senator Williams follows:]

STATEMENT OF HON. HARRISON A. WILLIAMS, JR., A U.S. SENATOR FROM THE STATE OF NEW JERSEY

Mr. Chairman, I appreciate having the opportunity to testify before your Committee today in support of legislation which would make dog fighting illegal by federal statute.

A bill which I introduced in the Senate on September 11, S. 3985, would prohibit the shipment in interstate commerce of dogs for the purpose of fighting.

I firmly believe that such legislation is necessary to halt this deplorable activity, and that action on it in this session of Congress is essential to prevent its further spread.

Several weeks ago, I was returning from a conference in Los Angeles.

During the flight I had the opportunity to speak at length with a gentleman who has been conducting an investigation of dog fighting for the past 3 years.

He has infiltrated dog fight rings and attended clandestine matches around the country.

Now he has compiled an impressive file of evidence, indicating that this so-called sport is highly organized and flourishing from coast to coast.

Upon my return to Washington, I found that a number of my constituents had read a New York Times article about dogfighting and had written to express their outrage that such an activity could be permitted to exist in this country.

The use of fighting dogs seems to have originated in Roman times.

Emperor Lucullus was in search of novel forms of entertainment and cast several of them into an arena to be trampled to death.

The fall of Rome brought an end to the use of fighting dogs for a time, but they reappeared in 13th Century England with the introduction of bull baiting.

The popularity of this activity led to the increased breeding of bulldogs whose strong jaws and short legs equipped them well as bulls' antagonists.

The viciousness of bull baiting finally led to its prohibition in England in 1835.

Then bulldogs were pitted against each other for sport, but they proved to be too docile.

However, several years later, James Hinks of Birmingham, England, crossed a bulldog with a rat terrier.

The rat terrier was well-known for its swiftness and ferocity in combating rats.

The animal resulting from this cross-breeding became a highly prized and widely used fighting dog.

The practice of pitting dogs against each other for sport gradually spread to other countries.

I would like to give a brief description of a dog fight from "Pit Dogs" magazine.

"The dogs were released at 10:27 p.m., with Major grabbing the skin on the side of the neck. Major threw King several times with face holds and King would hold the side of Major's face from the bottom . . . King bit very hard and held well.

"First one dog and then the other would be thrown. Major fought the side of the face and the neck skin—King attacked the front legs, shaking and biting hard but he held the ear and neck skin for a minute or two at a time when he'd grab these parts.

"It was anybody's guess as to which dog was ahead to the actual end of the fight. Major was rasping badly as the fight progressed . . . had been injured at the base of the windpipe in a previous go and had difficult breathing.

"At 27 minutes, Major's right front leg buckled under him and at 31 minutes his left front leg also buckled . . . at 11:19 King was snarling as Major grabbed his ear. Major, the winner in 1 hour and 12 minutes, made a beautiful courtesy scratch despite both front legs being severely damaged."

I realize this description is not as vivid as some of the pictures you have seen. I do want to emphasize the gruesome nature of this practice, and the fact that the accounts which we find loathsome are considered to be entertaining by the fans of this activity.

The cruelty this sport inflicts on animals goes on not only during actual matches, but also in the brutal training of dogs which involves the use of cats or other little animals as bait.

Certainly you have heard and seen sufficient evidence from those who have witnessed dog fights firsthand.

I know that I do not need to convince you that such an activity is completely alien to our basic moral and humane principles.

What I do wish to encourage is the need for federal legislation and enforcement.

In publications distributed nationwide among dog fighting promoters and enthusiasts, it is clear that the activity involves interstate commerce.

Breeders advertise their dogs for sale, owners offer challenges, and promoters publicize upcoming matches scheduled across the country.

The number and increasing circulation of these underground journals as well as their content indicate that the sport is well-organized and growing.

Weekend "conventions" feature several fights and attract hundreds of participants.

As you know, there are laws in most states which specifically ban dog fighting, and in the remaining states the practice is prohibited under general humane laws.

The relatively few raids on these events, however, suggest that the laws are not being enforced.

The primary reason for this lack of enforcement is that local authorities and humane officers, who are authorized to control dog fighting, are simply not equipped to deal with the peripheral activities.

The high financial stakes and the potential for violence make a raid a very dangerous operation, and only minimal penalties are meted out to the few offenders who are apprehended.

In order to avert detection, dog fight promoters plan the details of matches in strict secrecy, and often do not reveal the exact location of dog fights to participants until the last moment.

As further protection, it has been alleged that promoters have attempted to corrupt local law enforcement officials.

I believe that the practice of dog fighting represents a clear violation of our state and federal laws and public policy.

Existing laws should be reinforced through federal legislation specifically prohibiting dog fights.

Only in this way can all of these activities be stopped.

And only through vigilance can the Congress be assured that the law, once passed, will be effectively enforced.

It is clear that this legislation has widespread public support, and that opposition to it has been practically non-existent.

The volume of mail I have received from every section of the country is witness to the public desire for legislative action.

Immediate Congressional action is required to give federal officials the authority to end the needless suffering of animals and to arrest those who profit from it.

Mr. FOLEY. The subcommittee will resume its sitting. The next scheduled witness is the Honorable Bill Gunter, a Member of Congress from Florida.

Mr. Gunter's statement will be included in the record at this point.

[The prepared statement of Mr. Gunter follows:]

STATEMENT OF HON. BILL GUNTER, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF FLORIDA

Mr. Chairman, in light of the recent revelations brought to my attention regarding the barbaric, inhumane and growing practice of breeding and training dogs for the sole purpose of fighting each other, I am duty bound to be here today to express my disgust at this practice and to cooperate in putting an end to it.

As many as 1,000 dogfights are held throughout the United States for purposes of wagering and entertainment. Every State has laws prohibiting the fights but so far few arrests, and fewer prosecutions have been made. Even when arrests

are made, the fines are not high and only the organizers, not the spectators, are booked.

I am even more deeply distressed to find this sport is so active in my State of Florida. Mr. Duncan Wright, executive director of the American Dog Owners Association, and others, have spent two years investigating this practice and doing undercover work. Mr. Wright stated that there are six major dog fighting centers in this country and one of those centers is Florida. There are two publications, the larger one called "Pit Dogs," which dedicates most of its space to accounts and pictures of fights. A subscription can only be obtained upon the recommendation of an existing subscriber and it is published in Starke, Florida.

I have actually been sickened by the reports I have read dealing with the training of these dogs for "sport." While pups are still young they are driven to frenzied anger by rubbing their noses together and pinching flanks; this is then coached into habit. Then the pups are taught to kill. The trainers start with kittens and move up to small dogs. Wright estimated a fighting dog kills 100 cats and dogs during training.

Sometimes untrained purebred dogs are used and in these cases drugs and cattle prods are used to induce them to fight.

At the scene of these illegal dogfights, where illegal gambling goes on, there is also in many cases illegal prostitution and illegal selling of liquor.

I have cosponsored Congressman Kyros' bill which is identical to Senator Williams' bill, prohibiting the interstate commerce of dogs intended to be used to fight other dogs for purposes of sport, wagering, or entertainment.

Going even further than this legislation, I support the concept of Senator Magnuson's bill which is more comprehensive in scope as well as in penalties. We have seen how large and complicated this activity of cruelty has become and Senator Magnuson's bill would cover all animal fighting, not just dogs. It would be administered by the Department of Agriculture and jointly enforced by the Departments of Agriculture and Justice.

I ask that we act immediately and severely so this grossness will be stopped. Thank you.

Mr. FOLEY. The next witness is the Honorable Peter N. Kyros, Member of Congress from the State of Maine.

We are happy to welcome our distinguished colleague, Mr. Kyros, to the subcommittee.

Mr. Kyros is the author of legislation addressing this particular problem, and we are very happy to hear your views at this time.

STATEMENT OF HON. PETER N. KYROS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MAINE

Mr. KYROS. Thank you, Mr. Chairman and members of the subcommittee. I appreciate the opportunity to appear before you today to take part in hearings on my bill, H.R. 16715, and the other measures you are considering on dogfighting. You have already heard from representatives of several animal welfare organizations, emphasizing the growth and spread of a practice which, at the very least, can be described as it was in an editorial in a Maine newspaper, as "cruelty without parallel."

The sport of training dogs to fight each other, now recognized as the vicious practice it is, has grown in popularity in recent years. Men, women, and even children come together to watch Pit Bull terriers and Staffordshire terriers tear at each other for as long as 2½ hours in a fight to the death of one of them, or until one dog refuses to fight any longer. Dogfights have become big business—magazines are now published devoted solely to this sick sport, with such innocent titles as "your friend and mine," dogs are specifically bred and trained to fight, and conventions of dogfight enthusiasts are no longer uncommon.

I believe the witnesses who have already appeared before you, discussing this inhumane practice, have presented compelling testimony for the need for Federal legislation against dogfighting. Although dogfighting is outlawed in every State, either through animal cruelty statutes or specific prohibitions against fights, the evidence shows conclusively that no area is immune from this practice. In Illinois, for example, a grand jury has been convened to investigate dogfights and the illegal activities associated with them. We have learned from recent accounts in the news media of the existence of fights in such places as Oklahoma, Texas, which is reputed to be the dogfight center of the country, North Carolina, Rhode Island, Pennsylvania, and Massachusetts. The data further indicate evidence of interstate activity associated with the fights. At one dogfighting convention in Oklahoma, participants came from Kentucky, Texas, New Mexico and Arkansas, lured on by large profits, concessions and the thrill of witnessing six fights. I have even learned that one of the toughest strains of dogs used for fighting, the Colby strain, was bred in Maine's neighboring State of New Hampshire.

The existence of State laws on this subject has obviously not been a deterrent to the several thousand people who follow dogfights all across the country. Individual State laws, even where dogfights are specifically proscribed, are ineffective in stemming what seems to be the increasing popularity of this practice. For example, law enforcement officials in the Salt Lake City area, one of the country's larger dogfight centers, have admitted that not much has been done to prosecute violators, even though those who engage in this sport have been active for years, and even though Utah has a specific prohibition against persons who engage in fights, watch them, or keep animals for that purpose. These same law enforcement personnel have attested to the fact that dogfight enthusiasts travel across State lines in pursuit of the high stakes a fight can bring them. Neither are the penalties associated with dogfights sufficient to curb them. For instance, in my State of Maine, we have a law against premeditated animal fights, and the law covers anyone who instigates, promotes, judges, or otherwise participates in a fight. In addition, the State recently set up an animal humane office within the State Department of Agriculture, with 25 agents to enforce animal cruelty laws, a step which I believe is highly commendable. However, the fines which can be levied against a violator of the dogfight law are only \$200 or less, and while I am not aware of any dogfights in my State, this fine, which is more severe than fines in other States with similar laws, would have little effect on participants who bet anywhere from \$500 to \$1,000 on a given fight.

It seems to me that our purpose here should be to define the scope of Federal legislation prohibiting dogfighting, because I believe the evidence is clear that the situation warrants congressional action. Mr. Chairman, after considering the testimony already given, and the evidence of the extent of dog fights around the country, I am not convinced that a penalty of \$1,000 is sufficient. When I drafted my bill to include fines of at least \$1,000, I did so with the thought that anyone involved in such a cruel practice should be liable for at least that fine, if not more. It has been demonstrated here that we are dealing with a big business. When, as in some Texas fights, the minimum bet is \$500.

I think it is unwise, if our intent is to stop these fights and the illegal activities associated with them, to simply levy a fine that an avid dog-fighter can easily pay. The penalties should be severe enough to deter any more of this criminal activity, and I hope the subcommittee will consider stronger penalties for the bill.

Another area that deserves serious consideration is enforcement. If my bill, or any of the others before you, is included in the Animal Welfare Act, I hope heavy emphasis will be placed on the enforcement provisions. We already know that dogfights have flourished because of minimal enforcement of existing statutes. If we are to take action to halt the growth of dogfights, we need assurances that a Federal law will be strictly carried out—and assurances that the Department of Agriculture's veterinarians and humane agents will be given the power and the means to bring charges against offenders as quickly as possible, and as effectively as possible. In that light, perhaps your subcommittee will give consideration to authorizing the Attorney General as well as the Secretary of Agriculture to prosecute any person violating the provisions of the bill before you. This approach has been suggested by Senator Magnuson in a bill he just introduced, and I believe it is a course of action worthy of your attention. I would not be candid if I did not admit my hesitancy about the USDA's sole role in this law. After all, 2 years ago we instructed that agency to promulgate regulations on exercise standards for laboratory animals—and we are still waiting for them. I believe any Federal legislation will have to provide for stringent regulations and enforcement against dogfighters, and in view of the extent of the illegal activities associated with these matches, I hope a law can be written which can, once and for all, stop this cruelest of sports.

In closing, I would like to commend you for the swift actions you have taken in bringing this matter before the subcommittee, and thank you again for the opportunity you have afforded me to discuss this issue.

Mr. FOLEY. Thank you very much, Mr. Kyros. We certainly appreciate your concern and involvement. Your testimony today has been very helpful.

I have one or two questions that I would like to put to you regarding the bills. Are there any questions from other members?

Mr. BERGLAND. I have no questions.

Mr. LITTON. I have no questions.

Mr. FOLEY. Mr. Kyros, you propose that we should involve the Justice Department as well as the Department of Agriculture in the enforcement of any prohibition of dogfighting.

Is that correct?

Mr. KYROS. Yes, Mr. Chairman.

Mr. FOLEY. Is it your view that any Federal legislation should supplement rather than preempt existing State laws?

Mr. KYROS. I believe that it would be better to be supplementary because the thrust of my own bill and some of the bills I have seen are only to pick up a problem in interstate commerce, Mr. Chairman. We should not preempt activities of States. As a matter of fact, I think we should encourage them.

Mr. FOLEY. Then your goal is to encourage actions by State and local governments within their jurisdictions, to act against this.

Mr. KYROS. Absolutely. That would make the enforcement problem not purely a Federal matter, and it should be cooperative.

Mr. FOLEY. Suggestions have been made that enforcement provisions include the forfeiture of dogs or equipment used in dogfighting.

Do you have any position on this particular proposal?

Mr. KYROS. I would certainly subscribe to that idea. I think it would be a very excellent provision to put in the bill because I imagine the dogs by that time have been so trained that they should not be in the hands of ordinary owners. We have been told repeatedly that these dogs are trained to kill other small animals.

The people who engage in this sport should have the stiffest possible sanctions placed against them. There is no social utility in leaving them with the dogs. It is not taking away a fishing boat or a trailer. As long as it does not go beyond the dogs and the immediate equipment, I would agree, Mr. Chairman, that would be a good provision to put in any bill.

Mr. FOLEY. Again we want to thank you, Mr. Kyros. You certainly have been extremely active yourself in the forefront of proposed legislation to bar this activity. Your comments this morning and your testimony will be helpful to the subcommittee in reaching its determination on this legislation.

Mr. KYROS. Thank you, Mr. Chairman.

Mr. FOLEY. The next witness will be the Honorable Edward Koch, Member of Congress from the State of New York.

We also want to give you a warm welcome this morning.

STATEMENT OF HON. EDWARD I. KOCH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. KOCH. Thank you, Mr. Chairman.

If I may, I would like to file my formal statement.

Mr. Chairman, I received a great deal of correspondence, as I am sure every Member of Congress did, as a result of the New York Times article which first brought to the attention of the American public the widespread, barbaric practice of dogfighting. Apparently this practice has been going on for some time, yet simply unnoticed by those in public authority who should have done something long before. I would like to read, if I may, a very brief letter on this subject from one of my constituents.

It reads as follows (she referred to the New York Times article):

Dear Ed, by the time I was through reading the enclosed article I was not able to complete it as I was so overcome with emotion and tears that I had to put it down and then finish it. As a dog lover and owner, I could not believe in this day and age such things are really true. Can something be done?

As my Congressman and I am sure as a lover of animals as well, some bill can be introduced to prevent this sort of cruelty. I think you will find that all people in this country are aroused by this, and you will have many, many organizations wanting to help. Sincerely yours.

As a result of that and other letters, I wrote a letter to the Attorney General dated August 22, 1974, saying:

Dear Mr. Attorney General: I was shocked to read the enclosed article concerning illegal dog fighting which appeared in the New York Times of August 15, 1974, as were a number of my constituents. Since such activity is already illegal, it does not require new legislation but simply the enforcement of the existing statutes.

I would very much appreciate you advising me so I in turn may advise my constituents what if anything your office has, can and will do in this matter. Sincerely yours.

I regret to say I have not received a response from the Attorney General to date, but the fact is that apparently there is no Federal legislation on this matter. I would have thought that there would have been legislation since the dogs are brought across State lines. There may very well be, but since I am not an expert in that area I am willing to accept the fact that there is not existing legislation covering the matter so as to involve the Attorney General.

Therefore, I want to commend you, Mr. Chairman, and the members of your committee, for seizing the initiative so quickly and introducing appropriate legislation to deal with this matter. It is a matter of long tradition in the country which we can all be very proud of that the plight of animals, the humaneness that ought to be accorded animals, has been uppermost in the minds of most people in this country.

Unfortunately, there are a barbaric few who engage in a practice which they call sport, but which can only be described as a revolting occupation, and which must not only be condemned, but which should result in criminal penalties of a substantial kind. There are State laws, as our colleague Congressman Kyros pointed out, as we all know, that cover these matters in some States. Even in those States they have laws, they evidently have not been executed; and when the Federal Government determines the existence of such a situation, then it has a role to play, and therefore I wholeheartedly support your legislation.

Mr. FOLEY. Thank you very much, Mr. Koch.

I want to again commend you for your interest in this problem. I assume you share the view of our other witnesses, that the Federal involvement should be supplementary rather than exclusive and should not attempt to preempt existing State laws which prohibit cruelty or dogfighting. Is that correct?

Mr. KOCH. I am in accord.

I take the position that the Federal Government should only involve itself where the States have failed to take appropriate action, or where the problem is larger than State legislatures can deal with.

State legislatures can deal with dogfighting. The law enforcement agencies in the States have evidently failed to do so adequately. Therefore, it is appropriate for the Government to take current jurisdiction.

Mr. FOLEY. I think you pointed out an important fact. Within the United States, from the earliest days of our Republic, various States have had legislation prohibiting cruelty to animals. Many of those statutes are rather ancient in their provisions in that they carry penalties which now appear obsolete or too lax.

We have had information before this committee concerning dogfighting activities in the United States, which resulted from major investigative work done in your State and in the New England area. Our experience clearly indicates that concern with this problem knows no region or country when Members of Congress are expressing their concern throughout the Congress. We hope that through this or other committees of the House we will be able to address this problem in the very near future.

Thank you very much, Mr. Koch.

[Mr. Koch's prepared statement follows:]

PREPARED STATEMENT OF HON. EDWARD I. KOCH, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF NEW YORK

Mr. Chairman and members of the subcommittee, I would like to congratulate you in taking the initiative in holding these hearings and the chairman for introducing H.R. 16738, amending the act of August 24, 1966, which "assures the humane treatment of certain animals * * *." This legislation will take badly needed action on recent revelations on dogfighting, a practice which engages, I think, the sickest segments of our society.

On Monday, September 16, 1974, the New York Times printed an article describing the growing practice of pitting dog against dog in illegal dogfights. The article also described in detail the growing activities related to this deplorable "sport," from the publication of a secret "trade journal" to alleged "gangland" type murders because of large amounts of money involved. As a result of this piece and subsequent installments in the press and on television, my office has received many letters from concerned citizens expressing their dismay and horror that this practice continues unabated and with growing participation.

I was outraged to discover that this type of senseless activity goes on and immediately considered introducing legislation to clamp down on these inhumane promoters and unfeeling participants. I contacted Senator Harrison Williams, who sponsored the original legislation on this matter, expressing my support and interest in his bill. Presently, bills sponsored by the chairman of this subcommittee and by Congressmen Peyser and Kyros, are under consideration. I wholeheartedly support all of these measures and will vote for whichever comes to the floor first.

Traditionally, dogfighting has been the problem of the individual state, with most states outlawing the activity either under cruelty to animal clauses or under specific dogfighting regulations. Obviously these regulations are lacking or not being enforced as the many reports in the press now indicate.

These bills give the Federal Government the legal means for putting a stop to this activity, and I hope that you will report them quickly to the floor for action.

(The following communication was received from Mr. Koch :)

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., October 2, 1974.

Congressman THOMAS S. FOLEY,
1201 Longworth Office Building.

DEAR TOM : I should like to correct the record of this morning. It had been my understanding that my office had received no response from the Attorney General to my letter of inquiry dated August 22, 1974 which I read into the record. I was advised this afternoon, by a member of my staff, that a letter had been received, but inadvertently not brought to my attention. I am enclosing a copy of the letter and ask that it be placed in the record with my testimony.

Thank you,

EDWARD I. KOCH.

DEPARTMENT OF JUSTICE,
Washington, D.C., September 13, 1974.

HON. EDWARD I. KOCH,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN : Your letter to Attorney General Saxbe enclosing a news clipping from the New York Times concerning dog fighting has been referred to me.

There is no Federal law which prohibits dog fighting as it is described in the article. The gambling which is often related to this so-called sport provides a conduit through which Federal action might be taken. Section 1952 and 1955 of Title 18 of the United States Code provide penalties for those engaging in illegal gambling activities which affect interstate commerce. As the article notes, many states have statutes which deal with the inhumane treatment of animals. Evidence of violation of Federal laws should be reported to the nearest local office of the Federal Bureau of Investigation or brought to the attention of the appropriate United States Attorney.

I hope this information is of assistance to you.

Sincerely,

HENRY E. PETERSEN,
Assistant Attorney General.

Mr. FOLEY. The next witness will be Mr. Bernard Carey, State's attorney for the State of Illinois.

We are very happy to welcome you to the subcommittee this morning, and to receive your testimony.

Will you introduce your associate for the record?

**STATEMENT OF BERNARD CAREY, ILLINOIS STATE'S ATTORNEY,
CHICAGO, ILL.; ACCOMPANIED BY WILLIAM PENDERGAST, AS-
SISTANT STATE'S ATTORNEY**

Mr. CAREY. Thank you very much.

I brought along with me Bill Pendergast, assistant State's attorney, who has been handling this particular investigation before the Cook County grand jury.

Mr. FOLEY. Thank you very much.

Mr. CAREY. On behalf of Cook County, we commend you for having these hearings this morning. My office began an investigation into illegal dog fighting activity on August 16 of this year. This investigation is continuing before the grand jury of Cook County, Ill. We are working with the Cook County sheriff's police and the police department of the city of Countryside, Ill. Under Illinois law, disclosure of grand jury proceedings is barred. However, I can discuss the following information obtained through other investigative methods.

Between January 1 and the initiation of our investigation, at least three professional dogfights have been held in Cook County. Two of these consisted of one match and were attended by between 15 and 25 persons. In the third event there were two matches, attended by about 50 persons. One of the dogs involved in the first fight was so seriously injured, we believe its owner was later forced to destroy it. That dog was carried from the arena, bleeding profusely from the nose and mouth with two legs apparently broken.

Heavy gambling took place at each of the three events. In some instances, the dog owners entered into written gambling contracts with each other. Five dollars per person was charged for admission at the first two events, and ten dollars per person was charged for the third event. Alcoholic beverages were served at all three events.

Prior to each fight, the dogs were weighed, and in at least one case, an injection was administered to one of the dogs by its owner. The dogs involved in at least two of the matches were transported into Cook County from out of State.

Prior to one of the fights, a referee twisted the head off a live pigeon and poured its blood over the head of one of the dogs to show the animal's desire for blood and to entertain the spectators.

Patrons who attended the matches included residents from Cook County, Tennessee, Texas, Missouri, Ohio, and New York State. The occupation of the patrons ranged from physicians to construction workers. Women and children were also among the spectators. At one of the events a group of persons suspected of controlling the narcotics traffic in the Midwest were in attendance.

Although future dogfights were scheduled prior to the initiation of our investigation, our information leads us to believe that those matches have been canceled. Information concerning future fights

is closely guarded. In the past, spectators and dog owners were notified of the time and location of a fight through a postcard delivered on the day of the event, or directly contacted by the fight organizer who would then lead them in groups to the actual fight scene.

Our investigation has also indicated that dogfighting has taken place in the following areas. Du Page, Will, and McHenry Counties in Illinois; Milwaukee, Wis., Missouri, Tennessee, and Florida.

As I stated at the start, our investigation into this outrageous activity is continuing. Since professional dogfighting is by no means confined to Cook County, Ill., Federal legislation to curb this unbelievable brutality is highly desirable.

The proposed criminal penalties of up to 1 year in prison and/or a fine of up to \$1,000 for anyone convicted of transporting dogs across State lines or international boundaries to promote or attend a dogfight, and/or using the mails to further dogfighting are a step in the right direction. However, since this activity is primarily promoted for financial gain, a second conviction should be considered a felony with appropriate criminal penalties.

Mr. FOLEY. Thank you very much, Mr. Carey.

I want to commend you for taking the time to come before our subcommittee this morning and for the work your office has been doing in this investigation. I realize that the grand jury testimony is privileged, but the statement you have delivered this morning has been very helpful in expanding the record as to the nature, character, and extent of this brutal practice.

Are there any questions of Mr. Carey?

Mr. BERGLAND. Mr. Chairman, if I may ask one question.

Mr. Carey, has this dogfighting increased in recent years, is it on the decline, or has it reached a plateau?

Can you tell from your investigation?

Mr. CAREY. It is difficult to tell from our investigation, but from our standpoint it would seem that it has increased in the recent years because we have had no knowledge of it prior to this time. There has been no indication of it. Evidently it has increased.

Mr. BERGLAND. Have your investigations produced any convictions of violation of State law?

Mr. CAREY. At the present time we have not had any indictments yet on this matter. The only statute we have outside of the gambling statutes involved here would be a petty offense under Illinois law, which means a new maximum of up to a \$500 fine with no jail time, only probation time. The prior fine was \$200, and we intend to, of course, to explore the possibility of a better law in Illinois involving this. So we are in an area where the possible prosecution is not going to be much of a deterrent.

We feel, too, I would like to add, we feel that State laws ought to be improved in this area, and we will enforce those laws, but we do not feel that there would be any trampling upon our prerogatives with the inclusion of a Federal law. We feel certainly it is a concern of the Federal and local Government because of the interstate activity. Much of our investigation is somewhat limited, as you understand. We would welcome the addition of the Federal law.

Mr. BERGLAND. Thank you, Mr. Carey.

That is all I have, Mr. Chairman.

Mr. FOLEY. Mr. Denholm.

Mr. DENHOLM. Thank you, Mr. Chairman.

I want to thank you for appearing before our committee and making an excellent statement.

It appears that there is very little participation in the abuse of animals in Cook County.

Mr. CAREY. Of the number of individuals involved?

Mr. DENHOLM. Yes.

Mr. CAREY. Yes, sir.

Mr. DENHOLM. I saw a man carried from the ring bleeding profusely from the mouth and the nose in a boxing match at Chicago several years ago.

Is that illegal in Cook County?

Mr. CAREY. No, it is not.

Mr. DENHOLM. Is gambling at prize fights illegal in Cook County?

Mr. CAREY. Yes.

Mr. DENHOLM. Does it occur there at the present time?

Mr. CAREY. Not to my knowledge. I am sure it does, gambling of all sorts goes on.

Mr. DENHOLM. What is the objection of this kind of a sport? Is it the degree to which the animals are permitted to participate?

Mr. CAREY. Judging from the number and the content of the letters that we have received, I believe that many people are concerned that animals are defenseless and that they are trained without any freedom of choice on their own part to participate in these fights, and that they are not given any type of protection, whereas the comparison to human fights in the boxing ring, if the individuals are participating of their own free will and are not allowed in those instances to go beyond a certain point. However, with the dogs there has been every indication in fights, not necessarily ones that I have described, but in others, where they have been allowed to fight to the death or to other serious injuries which have led to their death. They have had to be put out of existence by their owners because of the serious nature of their injuries.

The fact that animals have no free will to protect themselves, this is the concern of the people in Chicago, in Cook County.

Mr. DENHOLM. You are making a clear distinction between the two. In your judgment the referees do not participate in the control of the fights at any particular time, as the fights proceed? Is that the issue?

Mr. CAREY. That varies, but it has been our experience if egged on by the crowd, that the tendency is to allow the fight to go as long as possible without concern to the physical capabilities or abilities or physical well-being of the dogs involved.

Mr. DENHOLM. If they were properly refereed, would you have the same objection?

Mr. CAREY. I do not believe personally that this type of sport is one that ought to be allowed in any way, shape or form because it would be difficult ever to gage the amount of injury to a dog who cannot speak to defend himself as a human being can.

Mr. DENHOLM. Do human beings speak when they are in a prize-fighting ring? Do they ask the referee to participate or stop the fight at any given time?

Mr. CAREY. That is a good question. I am not a particular expert on prizefighting. I am not sure whether or not they call for the towel to

be thrown in or their manager does. In any event, I think we are dealing with here the distinction being we are dealing with animals who do not have the same capabilities of free choice of belonging to this, where the human participants certainly have some freedom of choice to participate or not participate.

Mr. DENHOLM. What about rooster fights?

Mr. CAREY. We are not aware of any recently. However, we have a law that prohibits that also.

Mr. DENHOLM. I do not object to the idea of eliminating all abuse to beasts and animals but I do not understand the acceptable tolerance by society in distinguishing between the two.

Is there a referee present at these fights?

Mr. CAREY. In the ones that we have knowledge of there has been.

Mr. DENHOLM. What you are really complaining about is supervision of them, or do you want to eliminate all fights of all kinds?

Mr. CAREY. It has been my experience that the ones that have been going on are illegal ones and they have not been controlled to any extent. However, judging from the tones of the letters that we have received in our offices, I would say the public is generally in disagreement with any form of animal fighting whatsoever.

Mr. DENHOLM. If they are illegal, why do you need Federal legislation?

Mr. CAREY. Our investigation has indicated that much of the activity involving this is an interstate activity. Of course, our investigation is limited to the borderlines of Cook County. It is impossible for us to subpoena witnesses from out of State.

Mr. DENHOLM. Why is that?

Mr. CAREY. We are dealing here with a petty offense. Most States will not honor the subpoenas for a misdemeanor or petty offense of another State. I do not blame them in that regard because there is a lot of difficulty in the legal handling of a subpoena from out of State.

Mr. DENHOLM. You can issue a subpoena for a petty offense, can you not?

Mr. CAREY. We can issue it but there is a reluctance on the part of most prosecutors to honor those in other States. We cannot extradite witnesses for misdemeanors in general. It is very difficult.

Mr. DENHOLM. What evidence do you have that these dogs are being transported interstate for the purpose of fighting in Cook County?

Mr. CAREY. Without getting into any specific testimony, we have had testimony that indicates, from witnesses and statements from witnesses indicating that there has been participation in various States, and they have moved these animals in interstate commerce from State to State.

Mr. DENHOLM. Have you submitted some of that for the record here?

Mr. CAREY. No, we have not submitted anything that has come to our attention under oath before the grand jury, because I am barred from that, but we will certainly, upon the conclusion of our investigation, we will ask the Cook County grand jury to issue a report which then could be made public.

Mr. DENHOLM. Would you make that a part of this record for our files?

Mr. CAREY. We will as soon as it becomes available.

Mr. DENHOLM. Very well. Thank you very much.

Mr. FOLEY. We would like to join in the request, Mr. Carey, that when it becomes publicly available, we receive a copy of the grand jury report from your office.

Are there any further questions?

Counsel?

Mr. MURRAY. I would like to ask one question.

Earlier, witnesses suggested as a tool of enforcement, the confiscation of animals and paraphernalia that goes with the dogfighting business.

Do you see any constitutional or legal barriers to that kind of sanction?

Mr. CAREY. Certainly I assume you are talking about confiscation after a legal proceeding, after a conviction, that we should have due process of law. I see no constitutional problem with that as long as it is subsequent to conviction.

Mr. MURRAY. I am curious, and perhaps I have exposed my ignorance of criminal law, but in your carrying out your criminal statutes for drugs or violent crimes, you do seize the property of defendants and use it as evidence, and at a later time does the State confiscate that material?

Mr. CAREY. Yes. Under article 36 of Illinois, we are able to confiscate automobiles used in any trafficking of narcotics or other trafficking.

Mr. MURRAY. There is ample precedent in other parts of criminal law for a technique of confiscation of the animals and the equipment that goes with it if there has been due process and conviction; is that what you are saying?

Mr. CAREY. Yes.

Mr. MURRAY. Thank you.

Mr. FOLEY. Mr. Carey, you pointed out what I think is an important problem in law enforcement by States and localities. Furthermore, where there is interstate activity, it is very difficult for local State's attorneys, district attorneys, prosecuting attorneys, and so on, to obtain process from outside the State. This is particularly true if the State law classifies the offense as a misdemeanor. The interstate production of witnesses, as I recall, can only be in the case of major offenses.

Is this classified as a class C in the State of Illinois?

Mr. CAREY. No, sir. At the present time it is classified as a petty offense.

Mr. FOLEY. It does not provide for any jail term and only a maximum fine of \$500 and probation?

Mr. CAREY. That is correct, sir; no jail term whatsoever.

Mr. FOLEY. Is it your judgment that fines of that kind, even if imposed to the maximum, would be an effective deterrent to this type of activity where gambling and large financial interests are involved?

Mr. CAREY. No, sir. They, in my estimation, they are totally inadequate because there is a great possibility that more money than \$500 certainly is realized from some of these activities. Since there is no greater penalty for a second conviction, the conviction and fine itself would be meaningless to stop this kind of traffic.

Mr. FOLEY. Did I understand you to feel that you hope the Illinois legislature will consider increasing the penalties for activities of this kind?

Mr. CAREY. Yes, sir. We are going to take that initiative when the legislature is back in session.

Mr. FOLEY. As a law enforcement official, Mr. Carey, is it your experience that where one type of illegal activity, particularly of a covert nature, is involved, it tends to attract other illegal activity such as gambling and prostitution? We heard testimony to this effect, that where so-called meets or conventions have been held they tend to surround themselves with peripheral criminal activity in addition to the fighting of the dogs.

Mr. CAREY. Yes, sir.

It has been our experience that the fights that took place in Cook County did draw people who are also clandestinely involved in other illegal activities.

Mr. FOLEY. Again we want to thank you very much for your appearance here and your testimony, and Mr. Pendergast for his appearance.

We are hopeful that exposure of this activity through these hearings and the press will generate some effective Federal response and that State legislatures will strengthen their laws.

I know that the law enforcement officials, either in police agencies or in State's attorneys' offices, are currently often limited in the range of their enforcement by existing State law.

Again we want to thank you for giving us your views on this problem.

Mr. CAREY. Thank you.

Mr. FOLEY. The next witness will be the Honorable Glenn M. Anderson, Member of Congress from the State of California.

**STATEMENT OF HON. GLENN M. ANDERSON, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF CALIFORNIA; ACCOMPANIED
BY ALLAN HERYET**

Mr. ANDERSON. Thank you, Mr. Chairman and members of this committee. I would like to introduce my associate, Allan Heryet, from my office. I appreciate this opportunity to present testimony on behalf of H.R. 16738, the Animal Welfare Act Amendments of 1974, introduced by Mr. Foley on September 19.

California, my home State, has been cited as being a major dog-fighting area, and Los Angeles has been cited as a major center of dogfighting in a recent study undertaken by the American Dog Owners Association. As a representative of an area in which such abhorrent activities have been discovered by the association, I appreciate the opportunity to present my views on the need for legislation which would outlaw this form of mistreatment.

Many recent newspaper articles, highlighted by an August 15 article in the New York Times, have brought the illicit promotion of dogfighting to national attention. This deliberate brutality, shown not only to those dogs which are used for fighting, but to the small animals killed in the process of training such fighting dogs, shocks the sensibilities and outrages the sense of decency.

Mr. Chairman, it is tragic that in today's United States of America, one of the most advanced civilized nations in the world, an activity so reminiscent of ancient inhuman, barbaric spectacles can attract such large numbers of adherents. Although most of our States have laws prohibiting dogfighting, the fact that the practice transcends State boundaries and is increasing indicates that additional measures are warranted.

Regulation by the Federal Government could not only be an effective means of halting this clandestine and inhumane activity, but it could also be effective in preventing other forms of animal cruelty from becoming widely practiced within the national boundaries.

The importation of animal products into the United States, such as skins derived from commercially raised dogs and cats, is an example of just such a practice, which could threaten to become widespread across the United States. A report from the Foreign Agriculture Service of the U.S. Department of Agriculture, first thought to be based on an untrue report, but later confirmed, stated that a group of Venezuelan businessmen planned to commercially raise and slaughter cats, and then export their skins to the United States for sale. In addition to the skins, which reportedly would bring 50 cents each in the United States, these men planned to sell the gut for sutures and string for musical instruments, and to market the feet as good-luck charms. Fortunately, the Venezuelan firm was closed and legal action was taken.

In another case, a South African businessman announced a plan to raise dogs for importation of dogskins into the United States. However, public outcry led the South African Government to amend its Animal Protection Act to specifically prohibit the slaughtering of domestic dogs for financial gain.

It has recently been brought to my attention that dog and catskins have been imported from China and the U.S.S.R. An advertisement in last November's Women's Wear Daily, which offered dog fur products, reported that a New York furrier had received "the first shipment of Chinese furs to the United States in over 20 years * * *," among them quantities of "Manchurian dog," which have recently been offered for sale as rugs.

The availability of cat and dogskins was demonstrated at the 67th Leningrad International Fur Auction at which 9,200 house catskins and 32,500 dogskins were offered for sale. I suggest that it is reasonable to suppose from the advertisement in Women's Wear Daily that these items are of interest to U.S. purchasers.

Mr. Chairman, given the previous attempts to market domestic cat and dog products in the United States, and given the interest of U.S. purchasers in these products, there is no guarantee that future attempts to market cat or dogskins in the future would be unsuccessful. These practices have been prevented in the past, but may not be prevented in the future. Although many States have laws preventing marketing of cat or dog products, the flow of products made from commercially raised dogs or cats should be halted at our national borders.

I have introduced H.R. 3347, the Domestic Dog and Cat Animal Protection Act of 1973, which would discourage the beginning of dog and cat slaughter for profit for prohibiting the interstate transporta-

tion of products derived from the parts of dogs and cats. Together with H.R. 16738, the Animal Welfare Act Amendments of 1974, the Domestic Dog and Cat Animal Protection Act would fill the legislative vacuum which has existed for so long in the field of domestic dog and cat protection.

Mr. Chairman, I personally believe that those who would either slaughter cats and dogs for profit, or who would deal in animals trained to fight for primitive entertainment, have grossly misjudged the American people if they expect us to condone such schemes, or even stand by while such profit-motivated enterprises spread. The rate, according to reports, with which dogfighting has been allowed to spread unchecked across the Nation is disgusting. Let us hope that more extensive Federal legislation preventing all forms of cruelty to dogs and cats will be initiated before they become rampant.

Mr. Chairman, I come before this committee to join with our colleagues in urging action to prohibit the practice of dogfighting and to propose comprehensive Federal protection of domestic cats and dogs.

Mr. FOLEY. Thank you very much, Mr. Anderson. We very much appreciate your appearance here today, and your testimony.

Are there any questions?

Mr. BERGLAND. Mr. Chairman, I have one I would like to ask. First of all, I would like to congratulate Mr. Anderson for coming and presenting us with the benefit of his judgment.

Your bill, H.R. 3347, would discourage the slaughter of cats and dogs for profit?

Mr. ANDERSON. Yes.

Mr. BERGLAND. Would it apply to other animals that are slaughtered, for profit, such as mink, fox, cattle?

Mr. ANDERSON. No; strictly cats and dogs.

Mr. BERGLAND. Thank you very much. That is all, Mr. Chairman.

Mr. FOLEY. Mr. Denholm?

Mr. DENHOLM. I want to thank you for coming. I appreciate your good statement, Mr. Anderson.

Mr. FOLEY. Mr. Anderson, the Congressman advises me that your bill has been referred to the Commerce Committee. Is that so?

Mr. ANDERSON. My bill is before Ways and Means. We are trying to get it in the trade bill. We are having a little problem, because of the trade fight that we have, but I wanted to bring that in with the one that you have, to let you know that there are other areas that are somewhat symbiotic with the whole problem.

Mr. FOLEY. We appreciate not only your appearance here today but the statement you have made with regard to this legislation and the general problems associated with it. Thank you.

Mr. ANDERSON. Thank you, Mr. Chairman.

Mr. FOLEY. The next witness will be Ms. Nancy Stassinopoulos, the Society for Animal Rights, Inc., New York.

STATEMENT OF NANCY STASSINOPOULOS, SOCIETY FOR ANIMAL RIGHTS, INC.

Ms. STASSINOPOULOS. Mr. Chairman and members of the subcommittee, and guests, my name is Nancy Stassinopoulos. I am legal director for Citizens for Animals, the National Lobby for Humane Law, as-

sociated with the Society for Animal Rights. My testimony today will consist of a statement prepared by me and by Prof. Henry Mark Holtzer, special counsel, Citizens for Animals.

At the outset, I should like to state that we strongly support Federal legislation that would help eliminate the cruel and vicious practice of dogfights. Such legislation is needed and is long overdue. We therefore commend the subcommittee and its chairman for initiating these hearings into the abuses of dogfighting, and we thank him for this opportunity to be heard.

Federal legislation is needed, because State laws are inadequate, as demonstrated by the survey of State laws on dogfighting that has been submitted to the subcommittee by the Society for Animal Rights, and which we request at this time be made a part of the record.

Mr. FOLEY. At this time, if there is no objection, the survey will be included in the file of the committee.

I just want to say the Commission has been extremely helpful to the subcommittee. I examined the survey's funding personally, and found that it constitutes a very major addition to our hearing file record.

Ms. STASSINOPOULOS. Thank you. I am glad to hear it was helpful.

The survey reveals that 12 States, nearly one-quarter of the States in this Nation, do not have laws that expressly prohibit dogfighting. Many of these 12 States are reported to have been centers for dogfighting activity. Also, it is doubtful whether participants in dogfights could be prosecuted under the general anticruelty laws in those 12 States, because several courts have held that cockfighting does not come under the anticruelty laws.

The State statutes that do expressly prohibit dogfighting vary greatly in their scope and the penalties provided, with the result that there are 38 different penalties for the same offense, depending upon the State in which it is committed. Also, it has been documented that dogfighting activities are of an interstate character, and partake of many aspects of organized crime.

However, we have several objections to the two bills that are the subject of these hearings. First, anti-dogfighting legislation should be included in title 18 of the United States Code in order to show that it is a real crime, and to separate it from the Laboratory Animal Welfare Act. This would remove the implication that the Secretary of Agriculture is responsible for its enforcement.

Second, the penalties provided are not sufficient, and do not reflect the condemnation which our society has traditionally expressed toward acts of cruelty toward animals. Compare the penalty for offering a gratuity to a Federal official—up to 2 years in prison and/or a fine of up to \$10,000. Surely the cruelties of dogfighting should be punished by penalties at least as severe as these.

Third, not enough animals are protected. H.R. 16738 covers only dogs and warm-blooded mammals. H.R. 16715 reaches only dogs. It is common knowledge that cockfighting is widespread in many areas of the country, even where it is illegal; and there are many close connections between dogfighting and cockfighting. The legislation should extend to fights between all animals, and animal should be defined to include birds. For example, the New York statute defines animal as "any living creature except man."

Therefore, although it is not the subject of these hearings, S. 3985 is closer to the legislation we wish to have enacted. We would support it if the penalties are increased, if they protected all animals, and if, in addition to defining it as a crime within title 18, it also included dog-fighting within the scope of the antiracketeering statute, 18 U.S. Code, section 1952. Of course, should the subcommittee choose to approve a separate House bill, we would support such a bill if it also provided for increased penalties, protected all animals, defined a separate crime within title 18, and were not part of a package of amendments to the Laboratory Animal Welfare Act.

The enactment of Federal legislation that conforms to the criteria that we recommend would have the following salutary results. It would prohibit fights between all animals connected with interstate commerce. It would make such fights a real crime, and it would not sanction the Laboratory Animal Welfare Act, to which we and many other humane organizations remain opposed.

Thank you.

Mr. FOLEY. Thank you very much. We appreciate your statement. Are there any questions?

Your testimony, Ms. Stassinopoulos, regarding the approach that should be taken will be useful to the subcommittee, since we will undoubtedly consider which approach is to be followed if this legislation is to be advanced. I know you understand that this committee has limited jurisdiction. The approaches you suggested, therefore, might require the introduction of legislation which would be referred to other committees of the House.

We thank you very much for your appearance.

Ms. STASSINOPOULOS. Thank you.

Mr. FOLEY. We have a rollcall vote in progress on the floor of the House, and the subcommittee will recess briefly, so the members may respond to that call.

[A brief recess was taken.]

Mr. FOLEY. The subcommittee will resume its sitting.

The Committee for Humane Legislation, Inc., New York, N.Y., has submitted a statement, and we will accept it for the record.

STATEMENT OF JOWANDA SHELTON, COMMITTEE FOR HUMANE LEGISLATION
INC., NEW YORK, N.Y.

Mr. Chairman: The Committee for Humane Legislation wishes to go on record as urging the immediate enactment of legislation to make unlawful and set criminal penalties for the shipment, transportation, or movement in commerce of any creature for purposes of baiting one animal against the other or against man.

The reporters who have brought these heinous facts to the public's attention should be loudly applauded. It is more often easier to witness and know of such crimes than to publicly expose the criminals involved.

We compliment those members of Congress, including you, Mr. Foley, who have bravely offered for Congressional consideration legislation outlawing such barbaric practices. We hope this federal legislation will both encourage and mandate state officials to more closely police individual state laws already on their books condemning animal fighting and baiting. The Congressional Research Service of the Library of Congress reveals that even though 39 states specifically outlaw dog-fighting and many states have broad "cruelty to animal" statutes which can be interpreted as covering animal fighting, not all of them have been so interpreted.

Mr. Foley, the Committee commends you especially for your foresightedness in introducing legislation which covers all animals rather than just dogs. We

wish to recommend, however, that the proposed legislation be made clear that animal is defined as to include fowl or bird. We suggest the use of the term "creature." Cock-fighting and the use of live birds as bait for shooting targets should be banned by this "fight and bait" legislation.

An example of the need is represented in the New Mexico case (*State v. Buford*, 67 N.M. 51). A general cruelty to animals statute is in force there, but the case stated was interpreted as *not* to apply to cock-fighting.

In a similar example in Oklahoma (*Lock v. Falkenstine*, 380 P. 2d 278 (1963)) the statute was not interpreted as applying to cock-fighting.

State v. Stockton, 85 Arizona. 153, 333 P. 2d 735 (1958), held that gamecock was not an "animal" under the anti-cruelty statute (Ariz. Rev. State § 13-951).

Cocks are not the only bird abused. By State Statute: Michigan's Statute Sec. 28.244 specifically exempts English sparrows and pigeons from their animal and bird laws:

"Any person who shall keep or use any bull, bear, dog, cock or other animal or fowl or bird, excepting English sparrows and pigeons, for the purpose of fighting, baiting or as a target to be shot at, as a test of skill in marksmanship; and any person who shall be a party to or be present as a spectator at such fighting, baiting or shooting of any bear, dog, cock or other animal, or fowl or bird, excepting English sparrows and pigeons . . ."

Is it any more fitting that live sparrows and pigeons be used as bait for harassment and killing (California statutes use the terms "worry or injure") than the 30 or more kittens used each week as bait for the training of dogs? What makes live-creature-baiting acceptable for perfecting man's skill to kill while perfecting dog's skill to kill is being condemned. Is it not the same type of savage cruelty whether it be human or non-human doing the killing and tormenting?

On enforcement, Mr. Chairman: We feel that Section 15 of H.R. 16738 might better be enforced if it were not written as an amendment to the Animal Welfare Act. The Department of Agriculture has no policing power and has no power of arrest or confiscation of the abused animals.

According to investigators of the Humane Society of the United States, between \$50,000 and \$100,000 may be exchanged in betting at the major dog-fighting events. Animal and bird fighting and baiting should be considered as the brutal criminal activity it is—cruel and inhumane suffering and killing for the purpose of the human's enjoyment (in this instance, gambling) and should be policed accordingly.

Our Committee Counsel, Bernard Fensterwald, appeared before your subcommittee's hearings previously on H.R. 15843, precursor of H.R. 16738, and while we support that measure, we feel the legislation introduced by Mr. Kyros, Mr. Maraziti, and Senator Williams in the Senate making animal fighting and baiting a federal offense and punishable as a criminal offense, policed by the Department of Justice, would be a more effective way of stopping these outrageous acts.

Under those bills, Chapter 3 of title 18 of the U.S. Code would be amended by adding a new section § 48 to make shipment, transport, or otherwise movement in Commerce for the purpose of sport, wagering or entertainment in any show, exhibition, or fight, unlawful and punishable by fine or imprisonment or both.

We are encouraged, Mr. Foley, that you have included "attendance" at a dog or animal fighting venture. Encouragement of these illegal practices should certainly be considered part of the crime. Again in this instance, some states have no state law covering spectators at the event. Utah is one example of a state where spectators are not covered even though "intentional or knowingly causing of one animal to fight another" is declared a misdemeanor. (The original Utah law was repealed July 1, 1973 and replaced by Utah Code Ann. 76-90301.)

The new Colorado Criminal Code which took effect July 1, 1972 repeals prior laws on animal fighting, and replaces them with *Colo. Rev. Stat. Ann.* § 40-9-204 (Supp. 1971) "any person, association of persons, or corporation" but makes no provision for spectators. I note a paragraph from Christine Stevens' article "Fighting and Baiting" p. 110 of *Animals and Their Legal Rights*:

"In France, till 1963, under the general anti-cruelty statute, the second purpose ((2) demoralization of human beings) took precedence so completely over the first ((1) needless animal suffering) that *only* which took place in public was subject to prosecution—the rationale: onlookers would be harmed."

Another recommendation, Mr. Chairman: that the owner of the premises where activities of training the animals and/or permitting the spectacle also be included and penalties set under criminal statutes. My own state of Tennessee, as well as a number of other states, include "any person who shall aid, encour-

age, assist therein, or who shall permit or suffer any place to be so used." The inclusion of a similar provision in the legislation being discussed would approach the same events from a different direction.

We further recommend that in addition to banning the transportation of animals for the purpose of fighting, provisions should be extended to prohibit the use of the mails to advertise and promote this illegal industry. The exchange of information by the mails should be checked. The false glorification spreads and grows as magazines and advertisements cross the country by mail.

Mr. FOLEY. The final witness scheduled this morning will be Mr. Arthur L. Amundsen, director of the eastern office of the American Humane Association, New York, N.Y. We welcome you to the subcommittee.

STATEMENT OF ARTHUR L. AMUNDSEN, THE AMERICAN HUMANE ASSOCIATION

Mr. AMUNDSEN. The fighting of dogs and fighting cocks has been prohibited by law in the United States for over 100 years, when the first anticruelty laws were adopted. Such fights are also outlawed in most countries of the world, with the exception of a few which permit bullfighting and cockfighting.

In the United States, such laws are State laws, and for years the animal welfare organizations have been making arrests and securing convictions wherever possible when these illegal events take place. Unfortunately, there is a small percentage of the public which is interested in such events, and particularly in the gambling aspects. As a consequence, dogfights and similar events have been held in practically every State of the union from time to time. It is difficult to completely stamp out murder, rape, larceny, and other illegal activities. Unfortunately, sometimes law enforcement people are not strongly opposed to these events, particularly if it involves animal competition.

In my 42 years in this field, we have had difficulty and usually have had to go to the highest police authority within the State in order to conduct raids and secure convictions. The biggest problem is securing information about scheduled events of this sort, since, not only those involved are keeping the matter a secret, but oftentimes members of the public who may become aware of such an activity do not notify the authorities so that action can be taken to prevent scheduling a dogfight or a cockfight.

The American Humane Association asks for strong Federal legislation and Federal cooperation so that authorized officers and humane agencies may take action to eliminate this cruel and inhumane event. The American Humane Association, a national federation of over 1,000 SPCA's and humane societies, supports the enactment of H.R. 16738, but recommends that supervision by the Department of Agriculture will strengthen the prohibition against dogfighting.

Thank you.

[Attachment to Mr. Amundsen's statement may be found in the subcommittee files.]

Mr. FOLEY. Thank you very much, Mr. Amundsen. We appreciate your testimony on behalf of the American Humane Association. It has made a valuable contribution to our hearings.

The subcommittee will maintain the record open for submission for a period of an additional 10 days; and we will, of course, be meet-

ing as a subcommittee to determine the precise character of any legislation that would be reported. Your testimony, along with that of other witnesses, has served not only to assist the subcommittee, but to provide information and attention to this extremely brutal and vicious practice. In addition to any steps we may take at the Federal level, I hope that the attention focused the media on this problem, along with efforts of animal welfare and animal protection organizations throughout the country will spur further initiatives at the State and local level to re-examining the adequacy of existing local laws and, where lacking, to establish strictly enforced laws prohibiting this conduct.

Are there any questions?

Mr. LITTON. I have no questions.

Mr. FOLEY. If not, we again thank you for your appearance.

The subcommittee will stand adjourned, subject to the call of the Chair.

[Whereupon, at 11:45 a.m., the subcommittee adjourned, subject to the call of the Chair.]

[The following statements and letters were submitted to the subcommittee:]

OFFICE OF THE MINORITY LEADER,
U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., September 26, 1974.

MR. AND MRS. DANIEL WITT,
Mesa, Ariz.

DEAR MR. AND MRS. WITT: Thank you for your letter in support of legislation to prohibit dog fighting as a sport.

You will be pleased to learn that two bills have been introduced in this regard. One has been referred to the House Agriculture Committee, and the other to the Judiciary Committee. Hearings will be held on the Agriculture Committee bill on October 1 and 2. I have therefore taken the liberty of forwarding a copy of your letter to that committee, with instructions that it should be included in the official transcript of testimony.

As a result of Mr. Karras' appearance on the Today Show earlier this week, I have received several similar letters. I was shocked to learn of this so-called sport, and hope that something can be done to stop it in the very near future.

Thank you again for taking the time to write.

Yours sincerely,

JOHN J. RHODES.

STATEMENT OF HON. BILL FRENZEL, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF MINNESOTA

Mr. Chairman and Members of the Subcommittee, thank you for giving me this opportunity to present a statement in support of the legislation under consideration to amend the Animal Welfare Act (H.R. 16738).

I will restrict my comments to Section 15 of the proposal dealing with federal criminal sanctions on the interstate activity of pitting dogs against other dogs in organized fights. I am a co-sponsor of H.R. 16715 which is directed entirely at this issue, to amend the same section of the existing Act.

When the organized "sport" of dog fights suddenly came into national focus, the public reacted with horror and outrage at the very existence of the activity. I wish to commend this committee for swift reaction to that furor. While dog fights are illegal by specific statute or covered generally by existing state laws, apparently enforcement has been lax. Granted, the spectators and organizers have been careful to restrict the participation to aficionados, knowing that the sensibilities of the vast number of people would be totally shocked at the gruesome affair. Now, however, that dog fights and the attendant criminal activities have come to the fore, the federal sector should be obliged to deal with them. This so-called sport is simply contrary to what we in this country have come to believe is a responsible way to treat animals.

I think that the brutality and criminal activities and need for the legislation has been well represented to the subcommittee by other witnesses. My primary interest in appearing here today is to press the issue of enforcement. Without strict penalties, the law will serve as little more than a statement of good intentions. I would be more convinced about the prospect of getting rid of the activity if the legislation included a cooperative agreement with our law enforcement agencies. It needs to be made clear in the language of this bill that the Attorney General will have the authority to take action against the participants with or without waiting for a report from the Secretary of Agriculture. This is not to imply that the Secretary's actions shall in any way be diminished, but rather that either an independent or coordinated effort of the Secretary and the Attorney General be sufficient to carry out enforcement provisions. I hope the subcommittee will amend the language to reflect the two-pronged enforcement approach.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., October 7, 1974.

Hon. THOMAS S. FOLEY,
*Chairman, Subcommittee on Livestock and Grains, House Agriculture Committee,
U.S. House of Representatives, Longworth House Office Building, Washing-
ton, D.C.*

DEAR MR. CHAIRMAN: Your Subcommittee recently conducted hearings on H.R. 16738 which would amend the Federal Laboratory Animal Welfare Act of August 24, 1966, as amended, to assure humane treatment of certain animals, and for other purposes. I would like to express my overwhelming support for this legislation.

It has been brought to my attention that many instances of illegal dog fighting has been occurring in Cook County, Illinois which is the District I represent. Therefore, I am especially interested and concerned over Sec. 15 of H.R. 16738 which adds a new Sec. 26 and deals with dog fighting.

Mr. Bernard Carey, Illinois State's Attorney testified before your committee as to the gambling which took place at these events and the serious injuries caused to the dogs by the fights. In some instances the dogs had to be destroyed because their bodies were so badly mangled. He also stated that "Prior to one of the fights, a referee twisted the head off a live pigeon and poured its blood over the head of one of the dogs to show the animal's desire for blood and to entertain the spectators."

Mr. Chairman, it is inconceivable to me that such violence is taking place in the United States beside the fact that it is being done in my Congressional District. I am today introducing similar legislation to that which is before your committee to express my wholehearted support of this legislation. I would, however, request your consideration of an amendment to H.R. 16738, which I have included in my bill, which would provide a fine of "not less than \$2,000 but not more than \$5,000 and shall be imprisoned for not less than two years but not more than five years" for a second violation of the new Sec. 26.

I respectfully urge the committee's early adoption of H.R. 16738 and the amendment which I propose.

Thanking you for your cooperation.

With warmest regards,

ROBERT P. HANRAHAN,
Member of Congress.

STATEMENT OF HON. GEORGE M. O'BRIEN, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF ILLINOIS

Mr. Chairman, my name is George M. O'Brien. I represent the 17th Congressional District in Illinois which includes the counties of Will, Kankakee and Iroquois and most of Bloom Township in Cook County.

I am here today to urge immediate action on H.R. 16715. This bill, which I have joined Mr. Kyros in sponsoring, would help to put an end to the cruel and illegal practice of professional dog fighting.

Although these savage spectacles are banned in every state of the Union, they continue. It is well known that Illinois is a major center for this so-called "sport." In my own district, at least two Will County communities have been the

scene of numerous fights and dog-fighting conventions. Local breeders of pit bulls, the dogs most commonly used for fighting, are now under investigation.

Unfortunately, all the recent publicity and the investigation have only served to drive the fight promoters further underground.

Fans, owners and promoters claim we are making a big fuss about nothing. A fellow who refused to identify himself, naturally, told one of my aides recently that dog fights are just good clean fun, not much different from horse racing. It is just as natural for a pit bull to fight and die as it is for a thoroughbred to race, he claimed.

Of course he insisted that the dogs don't die very often or even get hurt badly. Reminded that dozens of kittens and dogs are killed in training just one fighting dog for the pit, our anonymous friend suggested that was as good a way as any for getting rid of unwanted pets.

I beg to differ with him on all counts. There is no comparison between a regulated, legal and beautiful sport such as horse racing and the sordid, clandestine death duels of dog fighting. A more apt comparison would be the Roman circuses that featured gladiators and men fighting wild beasts.

Furthermore, neither racing nor fighting to the death come naturally to horses and dogs. A Thoroughbred may run naturally but he must be highly trained in order to win races. Without training, pit bulls, or any dog, would not battle so desperately.

One has only to see the stomach-churning film presented here by Mr. Duncan Wright, president of the American Dog Owners Association, to know that the dogs do suffer death and maiming in these fights.

As for the argument about proper disposal of unwanted pets, I hardly believe that allowing a live animal to be torn apart is more humane than putting it to sleep or finding it a home.

While cruelty is the overriding evil of dog fighting, this practice is also closely tied to criminal activities. We have all heard testimony that wagering is heavy at these fights and that the stakes are phenomenally high. In addition, Mr. Frank McMan of the U.S. Humane Society has said that investigations are going on concerning two murders in Texas in connection with a dog fighting ring.

In my own district, police have reported that at least one witness to a local fight refused to testify out of fear. Fear of what, I don't know. But it does seem odd that any spectator at such a "good clean sport" would be afraid to talk about it. I've never met anyone who was afraid to talk about a basketball or football game.

There is only one way we can put a stop to dog fighting and the host of other activities related to it. We must enact strong federal legislation that will make it impossible to transport the dogs across state lines to follow the fight circuit. Our bill, H.R. 16715 could do this. It would also hit violators with a substantial fine of at least \$1,000 and could land them in prison for a year. Or both.

The fact that the fights continue is clear indication that our present state laws are just not enough.

Mr. Chairman, I urge you to give this matter serious consideration and to report out a bill quickly so that these savage duels may be stopped.

STATEMENT OF HON. CLAUDE PEPPER, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF FLORIDA

Mr. Chairman and Members of the Subcommittee, I would like to express my deep concern over the recent rise in popularity of our Nation's most horrible "sport", organized dog fighting. The atrocities of these activities were brought to my attention by Representative Kyros, and your Subcommittee Chairman, Tom Foley. I co-sponsored legislation with Representative Kyros, H.R. 16936 which is before your committee. I will support in every way any bill which attempts to curb organized dog fights and the illegal activities which accompany such events. I would also like to show my sincere gratitude and appreciation to the American Dog Owners Association for their humanitarian efforts in recent years and their success in uncovering organized dog fights and exposing the issue to the public.

Through the testimony before your Subcommittee, details of the growth and atrocities of this so-called "sport" were revealed. I am sure my colleagues share my shock and horror upon learning that during training for future battles, live cats and puppies are actually fed to dogs, and that in the fights themselves, at least one and usually both of the combatants die either during combat or some-

time thereafter due to injuries sustained in the fight. These illegal and inhuman activities exist for the financial advancement and entertainment of thousands of people. Organized dog fighting, without a doubt, constitutes unnecessary cruelty to animals, is beneath the dignity of man, and is repugnant to ordinary decency. Congress, as representatives of the American people, should take action to prohibit such illegal and immoral activities.

Federal action is necessary for several reasons. First, although dog fights are outlawed in all 50 States, due to the small penalties and lack of local enforcement, existing laws have done little to deter the participants. Second, the "sport" transcends state boundaries and is therefore subject to Federal regulation under interstate commerce. Third, the "sport" is advertised and its popularity furthered with various publications through the use of the United States Postal Service. Therefore, Congressional action is both necessary and proper.

To insure that Federal action will result in the elimination of organized dog fights and related activities, specific means of implementation and enforcement must be included in the bill. Also, penalties must be severe enough to make the potential repercussions more costly to participants than the potential rewards. Therefore, I feel the minimum fines should exceed the initially proposed \$1,000 level, and should include a substantial prison term. Enforcement provisions should be included giving the Department of Agriculture the means to infiltrate dog fights and expose participants, and the Attorney General the authority to prosecute violators.

I join with my colleagues in urging swift Congressional action to prohibit once and for all the disgusting practice of organized dog fighting.

STATEMENT OF HON. RONALD A. SARASIN, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF CONNECTICUT

Mr. Chairman: I appreciate having the opportunity to present testimony before the House Agriculture Committee's Subcommittee on Livestock and Grains on the pressing need to enact legislation which will assure the humane treatment of animals while being transported anywhere in the United States.

Congressional files provide extensive testimony to the American public's concern for our animals—our domestic pets, our livestock, our wildlife. The issues range from concern over steel jaw traps to the continuing need to update the endangered species list, from interest in federally funded neutering clinics to outrage over repetitive and unnecessary animal experimentation. All of these situations evoke great quantities of human sympathy and unquestionably warrant far more attention than they have thus far received. Unfortunately, the plight of our animals in transit is not nearly as well known and the public demand for reform in this area is only beginning to grow.

A tragedy in itself is the fact that we have to have these hearings at all. Back in 1870 the Chicago Livestock Reporter stated:

"There is great cruelty in transportation. Cars are terribly overcrowded, and animals are carried great distances without food or water. The result is that they are taken out of the cars at Chicago with bruises and sores, and legs and horns are broken, many of them dead and more almost dead."

There also was the case of 500 cattle being shipped across country. Out of the original number, only 35 survived the trip. An official investigation was conducted, the responsibility was determined to be definitely that of the carrier, but nothing was done. What is the difference between these two accounts involving livestock? One hundred and three years, years during which we have seen technological progress unrivaled in the history of mankind but during which time we have seen no marked improvement in the care of animals being transported from one destination to another.

Livestock are not the only animals which succumb to human negligence during transportation. Our citizens' pets often fall prey to uncaring humans and inadequate facilities. One report gives the account of Freddie, a prize-winning dachshund who was being shipped from New Hampshire to Chicago. When the owner went to the terminal to collect her pet, she was greeted with an attendant stating, "This dog's dead, lady! He stinks!"

The following statement from Mrs. Harry Long, Secretary of the Pet Animal Welfare Society of Connecticut describes only a few of the problems which my State has encountered in conjunction with the transportation of animals. (It is important to note that Connecticut, though populated, has no terminal facilities

comparable in size to those in New York, Washington, San Francisco, and Chicago, terminals which receive the vast majority of animals, yet the difficulties are nonetheless numerous.)

"I have seen young puppies come in to the veterinarian I often use in Orange, Connecticut. They were going to a pet shop in Woodbridge. At least they went to Dr. Whitney for a first puppy shot before going to the pet shop. But they were in flimsy little orange crates being delivered by REA. No protection but maybe a newspaper on the bottom of the crate and this in SUB-ZERO weather. Only the warmth of their little bodies huddled together to protect them from the cold!! They usually come from a puppy mill in LaPlatta, Missouri. This is in the rural section of Missouri, no direct airlines! The Lord only knows how many transfers had to be made to reach New Haven, Connecticut. Dr. Whitney often told me of puppies dead on arrival . . . or puppies incubating distemper. When this happened, the shop would refuse them and so would the breeder!"

Mrs. Long continued her statement with a description of another serious problem found in the shipment of animals, the age of the animals, many of whom are shipped well in advance of the weaning age.

"We have taken them in (to the veterinarian) when they were supposed to be 8 weeks old, and our vet will tell us they are 5 to 6 weeks old. A good breeder would not let a pup go before 8 weeks of age and many prefer them to be 12 weeks of age. (You probably know that a few months ago, Connecticut got a law that puppies cannot be sold under 8 weeks of age.) These young animals are shipped long distances before they can, because of their age, stand the long trip, and of course no food while in shipment!

"Enclosed is a clipping from the *Hartford Courant*, which reads as follows:

"Five puppies destined for Hartford area Christmas stockings perished en route from a Kansas kennel to a Rocky Hill pet shop last week.

"The puppies were delayed three days along the way, had insufficient food and water, and were too young to be shipped, a Hartford veterinarian said.

"The pups arrived at the Railway Express Agency terminal at Bradley International Airport on December 20, four days after they left the Kansas kennel where they were born.

"Three were dead on arrival. They had starved to death. Three more were near death.

"James Mowrey, an REA sales representative, took the survivors home, but two later died.

"The five pups were apparently the victims of a shipping mix-up. They left Kansas Dec. 16, and should have arrived at Bradley the following day. They were packed two to a crate, and given a day's supply of food and water.

"But somewhere between Kansas and Hartford, the pups sat unnoticed and unfed for three days. Mowrey theorized that they were held up in Chicago when a two-day snowstorm closed down O'Hare International Airport.

"When the pups finally arrived at Bradley, an REA employee noticed three were still alive, and took them into the warmth of the manager's office. The next day, the three pups were brought to the REA office in Hartford, where Mowrey found them when he came to work Dec. 21.

"Mowrey took them to the Hartford Veterinary Hospital in Newington.

"The veterinarian who saw the pups—two schnauzers and a Russian wolfhound—described them as "extremely dehydrated".

"In addition, the veterinarian said, the schnauzers had had their ears cropped about a week before they were shipped, which caused "additional stress".

"The kennel pedigree papers which arrived with the pups revealed that they ranged in age from four to six weeks, according to Mowrey.

"However, the Kansas animal health certificate described all six dogs as being eight weeks of age. The veterinarian's signature on the certificate was illegible."

Mrs. Long continued by saying, "This, of course, is not an isolated case."

Dogs and cats, cattle and sheep, are not the only animals to be shipped in interstate commerce, although these domestic pets and livestock probably constitute the largest percentage. One need only read the advertisements in the most popular sporting magazines in the nation to realize the number of species which cross our states' borders. Wolves, racoons, deer, squirrels, chipmunks, quail, pheasants, ferrets, chinchillas, skunks, monkeys, bobcats, turtles, lizards, snakes and scores of others reach far destinations by boat, truck, train and airplane.

These animals all have one thing in common—they are placed into the particular modes of transportation alive. All too often the similarity ends here. If

distemper or some other communicable disease doesn't afflict or kill the animal, there is far too great a chance that dehydration, freezing temperatures, suffocation, or the crushing weight of another piece of cargo will. The danger doesn't stop once the more fortunate animal has been unloaded and is still alive. In some cases, these animals are left for days at the freight areas with little or no food and water and no exercise. Disease spreads from one uninnoculated animal to another.

Many will state that the above examples are a generalization and are thus invalid in the total context of this issue. I must refute such a contention, however. While it is quite possible that the inhumane conditions of animals in transit are the exceptions rather than the rules, it is nonetheless the case that thousands of animals suffer and die when being transported.

The Federal government has not ignored this problem. During the 93rd Congress, hearings have been held in various congressional committees on pieces of legislation similar to that which we are addressing today. Consequently, the first step we must take, if we are honestly interested in drafting legislation to improve the conditions of animals in transit, is to look to the findings of our colleagues who have already investigated this problem. The Government Operations Committee, in response to a steady increase in complaints of deaths or injuries to domestic animals during shipment over the past three years, issued a report on "Problems in Air Shipment of Domestic Animals" in the first session of this Congress. Their research led to the following six recommendations:

1. Since the transportation of animals crosses the jurisdictional lines of the U.S. Department of Agriculture, the Civil Aeronautics Board and the Federal Aviation Administration, these three agencies should form an interagency committee to identify existing problems and develop corrective regulations.

2. The interagency committee should develop standards for animal shipping containers, taking into consideration such factors as structural durability, ventilation and size requirements of various animals. These standards should then be assimilated into the regulations of each of the three agencies, obligating common carriers to refuse any shipment that does not comply with the regulations.

3. The U.S.D.A. should implement its announced program of monitoring airports to improve enforcement of their regulations covering the shipping of animals. As interagency standards are developed U.S.D.A. monitoring also would provide enforcement of container regulations at the point animal shipments are tendered to the common carrier.

4. CAB should examine the feasibility of requiring the airlines to establish a priority classification for animals, considering such questions as: 1) Should the airlines be required to reserve space for animals on a particular flight; 2) should carriers be required to ship animals on a flight available basis; 3) should animals be shipped primarily direct rather than transfer flights; 4) should animals be shipped only during certain periods of the year and certain hours of the day according to climatic conditions; 5) would various improvement in the system for transporting animals justify the increased costs; and 6) can shippers realistically bear the additional costs.

5. The CAB and FAA should establish regulations providing for safe and humane handling and stowing of animals at airports and aboard aircraft. In addition, FAA should include inspections of animal handling procedures as part of its current spot-checks of aircraft cargo.

6. The interagency committee should study the flow of animal traffic at various airports and require the establishment of special animal handling facilities such as animal ports where deemed necessary. The interagency committee should also determine under what circumstances these special facilities must be utilized.

These are excellent recommendations, some of which can be impacted upon by the House Agriculture Committee, others which are under the jurisdiction of other committees.

Perhaps the most important area for us to address now is embodied in the Government Operation's Committee's findings that while the CAB presently possesses the greatest potential for improving conditions in animal transportation by requiring airlines to adopt adequate handling procedures in their tariffs, they have thus far refused to exercise their authority, going so far as to recommend that the U.S. Department of Agriculture be given the necessary statutory authority to develop and implement a program to "identify and deal with problems of transporting animals by air." Because of this situation, it is obvious that some definite changes in the law must be made if we are to accomplish the objectives of the measures under consideration. If the CAB does not want, and will not exercise, its authority in this area, then the Animal Welfare Act must be amended accordingly.

Once we have transferred this authority to develop such a program, we have only begun to open the avenues for accomplishing humane treatment for animals in transit. The next step is to again amend the Animal Welfare Act of 1970 to include common carriers under the jurisdiction of the Department of Agriculture. At the same time, it might also be judicious to include retail pet stores in the provisions of the law. The reason for the first step is abundantly clear for if the Department of Agriculture is to have adequate authority in this area since the CAB apparently does not want it, they must have adequate jurisdiction over common carriers. Given the situation that exists, if we do not make this change, there seems little reason to conduct these hearings.

In inclusion of retail pet stores under the Animal Welfare Act, though the reason may not be clear, is necessary given the fact that the greatest problem is transporting animals seems to center around the commercial breeders, who, in the words of the Government Operations Committee report; "cut corners in an effort to get their animals to market as quickly and inexpensively as possible." Excluding livestock, if the animals are not being shipped to laboratories for research, a great number of them are being shipped to pet stores. While the vast majority of pet stores take every possible precaution to insure that animals are well-cared for en route, there are many who do not share this concern. Consequently, to exclude them from coverage would be tantamount to intentionally ignore a substantial portion of the problem.

The Government Operations Committee recommended that a study be conducted to determine the flow of animals to the various transportation terminals throughout the country. This is essential if we are to find specific solutions for specific problems. Animal ports have been suggested as one approach to the problem experienced by the busier terminals in the country, similar to the one presently caring for the animals which pass through Kennedy International Airport. Working with such facilities and humane organizations throughout the nation, minimum standards must be developed for both the physical facilities and the care to be provided. The Federal government possesses the unique capability of providing incentives to encourage the various major carriers and terminals to work toward this end.

Enforcement is a major problem and will continue to be so in the future if efforts are not made to expand the enforcement staffs. In this area, the Federal, state and local governments must work together to insure that men and women are available to secure compliance with the law. On countless occasions, individuals of humane organizations have stated that laws which are on the books are basically good, but that it is impossible to enforce them. This is a ridiculous situation.

So is the situation which seems to exist within the Federal government. Presently, it does not appear that the agencies in question have sufficient resources to accomplish the tasks set before them by the Congress. In their own words, they do not appear to have either the manpower or the money to develop, implement and enforce the programs Congressional intent has requested. Consequently, we must respond to realistic needs, insure that our authorization levels are appropriate and that sufficient authorizations are provided.

Just as we have not been able to eliminate the cruelty to human beings, we will not be able to eliminate the cruelty to animals. However, we have concentrated our efforts to minimizing the former, and we have an obligation to intensify our efforts toward minimizing the latter. Animals are not commodities, are not general freight, and are not items which were placed on this earth for man to do with as he pleases. They are alive, and by virtue of that fact, must be given at least humane treatment. We can improve upon the care given these animals if we take the many steps which those testifying in favor of this legislation have mentioned.

STATEMENT OF HON. LESTER L. WOLFF, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF NEW YORK

Mr. Chairman, I greatly appreciate having the opportunity to submit testimony in support of H.R. 10185 and related legislation which seek to regulate and improve the treatment of animals being transported anywhere in the U.S. I am pleased to be a cosponsor of this legislation which addresses itself to the very real need to provide proper care for animals in transit by the nation's common carriers, as well as in terminals. I would also like to commend the Subcommittee and its distinguished Chairman for the interest it has shown over the years in fostering humane treatment of animals.

This legislation represents a logical extension and broadening of the laws we already have for providing humane care and housing for animals. The Laboratory Animal Welfare Act of 1966 and the Animal Welfare Act of 1970 establish standards for humane treatment of animals used in research in scientific institutions, on the premises of animal dealers, nonlaboratory animals transported, bought, sold or exhibited for teaching purposes, for use as pets, or for exhibition in zoos, circuses or carnivals. These measures took important first steps in insuring decent care for animals, yet, at least one major loophole remains. Common carriers have consistently been excluded from regulation. Thus, there are no assurances that animals transported by common carriers, particularly airlines, will not suffer abuse or substandard treatment.

I am sure that the majority of my colleagues have heard virtual "horror stories" from their constituents regarding the ill-treatment of their pets by the common carriers, but in particular by the airlines. I have in fact heard accounts from airline employees themselves who were concerned about the poor conditions under which animals are housed or carried and the abuse of animals both in terminals and in transit. It is indeed not rare to have an airline employee caution you not to have your pet flown anywhere, especially if the animal is very young or in poor health.

As the distinguished author of this legislation, Mr. Whitehurst, pointed out in his testimony before the Committee, the fact is that the airlines have not been encouraged or directed to process animals as other than general freight. Animals are considered as inanimate cargo and in most cases are given no better treatment than a shipful of mail or a crateful of fresh oranges. As a result, animals are shipped in flimsy containers, left to endure long waits in overheated or drafty terminals which have no specific facilities for animals, and are improperly stowed in airline cargo compartments. One of the greatest dangers, particularly during long flights, which animals must endure are the tremendous fluctuations in temperature in the cargo compartments. Animals can be subjected to temperatures ranging from nearly freezing to 90° Fahrenheit or more. In addition, the cargo compartments do not have an adequate air flow. Thus, both suffocation and freezing are dangers posed to animals in transit, dangers which more often than not have led to severe injury, and in some cases death.

Another problem is that airlines do not give shipping priority to animals. Thus, they are rarely put on direct flights and must endure long waits in terminals which are not equipped to handle animals. They are often left without food, or water and rarely get any exercise.

Mr. Chairman, when we talk about regulating the treatment of animals in transit and in terminals, we are not talking about imposing excessive costs on common carriers. In most instances, decent care for animals in transit could be effected with a minimum financial commitment and actually very little trouble. To give you an example, my colleague from Virginia, Mr. Whitehurst, pointed out that one of the gravest shortcomings in shipping animals is the type of container used. They are for the most part only flimsy crates that can be easily crushed or splintered, provide little ventilation or room to maneuver and are often the major cause of death or injury to the animal. It is certainly not imposing a financial strain to require the common carriers to use containers which meet acceptable standards.

Mr. Chairman, this country prides itself on its humanitarian tradition, and rightly so. H.R. 10185 and related legislation continue that tradition and are consistent with the affectionate esteem that exists for animals throughout the United States. I hope this legislation will be reported favorably to the House in the interests of common decency toward all living creatures. Thank you again for the opportunity to present this testimony and for your continued interest in promoting the welfare of animals in this country.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., October 2, 1974.

HON. THOMAS S. FOLEY,
Longworth House Office Building.

DEAR TOM: A number of my constituents have written to me to protest the dog-fighting that has been going on across the country. It is my understanding that your fine subcommittee plans to include a provision prohibiting such activity when the clean bill is drafted to amend the Animal Welfare Act.

I just want you to know that such a provision would have my full support. Such cruelty should not be condoned or permitted to continue.

With cordial best wishes, I remain

Sincerely,

G. WILLIAM WHITEHURST.

AMERICAN QUARTER HORSE ASSOCIATION.

Amarillo, Tex., August 7, 1974.

Hon. THOMAS S. FOLEY.

Chairman, Subcommittee on Livestock and Grains, Committee on Agriculture, House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MR. FOLEY: On behalf of the members of the American Quarter Horse Association, I would like to make some comments pertaining to the proposed pieces of legislation which have been specified as H.R. 15843 and H.R. 16070. There are some points in those bills which I feel would be of some concern to the many members of this organization.

In reference to H.R. 15843, if Section 10(C) applies to horses, it could be a considerable obstacle since it would hamper the shipment of mares with foals at side to stallions for the purpose of re-breeding. If it does not apply to horses, of course, we would not have this objection.

In H.R. 16070, there are a few items which appear to have a potentially dangerous impact on the horse industry.

For instance, Sections 201 and 205 seem to indicate that the horse owner who hires a common carrier to transport his horse would be liable for any violation perpetrated by the carrier. If that is the intent of these paragraphs, it would seem that it is unfair to individuals who are in no position to protect themselves. If that is not the intent of these paragraphs, it would seem that they should be re-written in such a way as to specifically name the common carrier as the liable party. In either case, it would seem that the language of these sections should be changed.

Section 203 authorizes the Secretary to consult experts, including outside consultants where indicated. To insure that the parties who will be most affected by this legislation would be properly represented and protected, I believe that this legislation should state that outside consultants must include the owners of horses and the common carriers who are active in the transportation of horses.

In Section 207(a), there is a provision which would permit inspectors to confiscate and destroy any horse found to be suffering as a result of a failure to comply with the provisions of this title or resulting regulation. Again we have an instance where the actual owner of a horse has not caused the undesirable condition. In addition, the horse could be destroyed before its owner had any opportunity to know about or better the condition of the horse. Under these provisions, in the instance of a valuable horse, the owner would thus be heavily penalized for the actions of another party. It would seem that this section should include provisions for the owner to be notified and permitted to remedy the suffering of the horse by providing other care and thereby retain his horse in those instances where the owner desires to do so.

Thank you, Mr. Foley, for this opportunity to express some opinions concerning legislation which would affect the horse industry. We are, of course, very interested in the proper protection of horses and are happy that your committee is giving this thought to such activities.

Sincerely,

DON JONES,
Executive Secretary.

STATEMENT OF MRS. EDNA COOKE, EXECUTIVE DIRECTOR, ANIMAL WELFARE LEAGUE OF ALEXANDRIA, VA., INC.

Over the past year and a half, it has been my extreme pleasure to work with the volunteers who care for the animals at the Animalport at National Airport. In that time, the Animal Welfare League of Alexandria has assisted the volunteers in any way it could be of service, mainly by housing animals enroute who have been misrouted, who need some extra care before continuing on their way, or who are ill and need veterinarian attention. In some cases, animals are so ill that euthanasia is necessary to relieve extreme suffering.

If it were not for the volunteers from the Washington Humane Society, the animals that arrive at the Alexandria Animal Shelter would all be brought in as DOA's (dead on arrival).

I have received many phone calls from people who have had unfortunate experiences in the air transportation of their pets, telling me of the assurance they were given that their pets would be well cared for by the airlines and REA: how their animals would be walked, fed and watered, kept out of the heat or cold, whichever the case might be. But, from my experience, I have seen animals sitting on the runways of the airlines in both cold weather and snow, or, in reverse, in the broiling sun in the summer. No one pays any attention to these miserable, suffering animals. Monkeys screaming for water, packed together so that they can hardly move, the dead with the living—mostly there is always more dead than living. Monkeys have forced their arms between the wires of the cages, drawing blood, desperately trying to grab for water. But to no avail, except for the volunteers at the airport who were aware of their suffering and assisted them. Rats, who most people feel have no feelings at all, are the lowliest of the low. They sometimes travel for days without food or water only to sit at REA terminals for days more waiting for someone to pick them up from the laboratories. Yet, some of these lowly rats cost the taxpayers of this country over a hundred dollars a pair. The one shipment of rats that was brought to the Alexandria Animal Shelter with almost half of them dead, and the rest in such horrible condition that they had to be destroyed, cost over \$1,086.65.

Over 85% of the animals being shipped to National Airport are unhealthy animals. Coccidiosis runs rampant—over 70% of the puppies we handled had this disease. Many had distemper. Most of the puppies were heavily infested with worms. Leptospirosis has been detected in the guinea pigs. Yet every animal in transit came with a certificate signed by a veterinarian just a few days before, stating that the animal was in good health. Sometimes the health certificate was for a dog other than the one in the crate, or sometimes a certificate was dated for a previous year—such as one case we had. Or the health certificate might be for the wrong sex or the wrong color, but nevertheless there is a certificate ascertaining to the animal's wellbeing.

REA, which is paid to take care of these animals, flagrantly disregards its responsibilities to its customers in this capacity; and also has thwarted the efforts of the volunteer humane workers to assist the animals in many ways, as well as denying veterinarian attention in some cases.

In assisting the volunteer humane workers at National Airport, the Animal Welfare League of Alexandria has spent over \$920.00 in veterinarian bills and board. Several bills have been sent to REA, but no reimbursement has been forthcoming.

The air transportation of animals and, just as important, the truck transportation of animals, need to be regulated. It is my sincere hope suggestions will come forth from this Subcommittee for regulations that will eliminate the suffering and death of animals in transit. These regulations are long overdue.

Attached is a breakdown of some of the expenditures incurred by the Animal Welfare League of Alexandria from 6-21-73 to 7-23-74 in caring for animals taken from REA at the National Airport.

[The attachment is held in the committee files.]

STATEMENT OF THE ASSOCIATION OF AMERICAN RAILROADS

The Association of American Railroads is a voluntary, unincorporated, non-profit organization composed of member railroads operating in the United States, Canada, and Mexico. Its members operate 99 percent of the trackage, employ 98 percent of the workers, and produce 98.9 percent of the revenues of all Class I Railroads in the United States. The railroads provide the transportation necessary for any types of animals, including pets, animals used for research and exhibition, and livestock.

H.R. 15843 seeks to amend the Federal Laboratory Animal Welfare Act of August 24, 1966 (80 Stat. 350, as amended by the Animal Welfare Act of 1970, 84 Stat. 1560; 7 U.S.C. 2131-2155).

This bill would amend the Animal Welfare Act to include regulation of "intermediate handlers" and "common carriers" by the Secretary of Agriculture in the transportation of warm-blooded animals used or intended for use for research, testing, experimentation, or exhibition purposes, or as pets. As presently defined

in the Act the word "animal" does not include horses not used for research purposes and other farm animals (livestock).

The bill would directly affect carrier operations in a number of areas. Section 6 would amend the Act to require that all carriers that transport "animals" must register with the Secretary. Section 8 requires the carriers to maintain such records as the Secretary may prescribe. Section 10 directs the Secretary to prescribe standards to govern the transportation of animals, prohibits receipt of animals by a carrier without a veterinary certificate attesting to the animals' sound health, and prohibits transportation of animals when the cost of the animals or the freight charges are to be paid upon delivery. Section 12 would amend the act to direct inspection by the Secretary of carrier facilities and records to assure compliance with the Act or regulations promulgated thereunder and authorizes the Secretary to have any animal, suffering as a result of violation of the Act or regulations promulgated thereunder, destroyed. Section 19(d) provides for a civil penalty of up to \$1000 for each violation of Section 10 or any regulation issued thereunder. In addition, the carriers would become subject to the penalty provisions of 15 U.S.C. § 50, as are all parties subject to the provisions of the Animal Welfare Act. Under the provisions of 15 U.S.C. § 50, willful failure to keep full and accurate records or to submit them to the Secretary may result in a fine of not less than \$1000 nor more than \$5000 or imprisonment of not more than three years, or both.

Attached as the last section of H.R. 15843, in what appears to be an afterthought, is Section 15, which authorizes the Secretary to issue "regulations to assure the humane handling of livestock [those animals heretofore excluded as the subject of regulation under the Animal Welfare] by any person having custody thereof in the course of their transportation by . . . common carrier."

The railroads object to the over-broad authority this bill would grant to the Secretary of Agriculture, both as to livestock and those animals other than livestock. Section 1-14 of H.R. 15843, and those sections enumerated above in particular, direct that the Secretary be given an unnecessarily wide scope of powers over the transportation of animals other than livestock. Depending on the extent and scope of the Secretary's regulation, registration, record-keeping requirements, and inspection of facilities may interfere in the efficient day-to-day operations of the railroads. Especially in the case of individual railroads hauling only limited numbers of such animals, the requirements intended to be imposed may well be unnecessary. By continuing to monitor the handling of such animals both before and after shipment, the Secretary should be able to ensure their safety. The Interstate Commerce Commission is the agency responsible for regulation of the railroads—the ICC should be permitted to continue to so regulate.

Section 15, which directs the Secretary to regulate the carriers "to assure the humane treatment of livestock" is unnecessary and untimely proposed. Through Section 15 the legislative responsibility is delegated to the Secretary. Guidelines, suggestions, and restrictions are totally lacking. The Section includes the statement that the Secretary may impose "more stringent requirements than are otherwise prescribed in this or any other Act." The fact that transportation of livestock by railroad has been effectively regulated for many, many years, under the Livestock Transportation Act of June 29, 1906, 45 U.S.C. 71 *et seq.*, apparently has not been adequately considered. The Livestock Transportation Act already provides sufficient safeguards for the handling of such animals by the railroads. The Act currently requires that periodic unloading, rest, water, and feed be given. Under the terms of the Act, no railroad shall confine livestock for a period longer than 28 hours (36 hours with permission of owner) without unloading such animals, "in a humane manner, into properly equipped pens, for rest, water, and feeding, for a period of at least five consecutive hours . . ." (45 U.S.C. 71) That Act has stood the test of time. Amendment has not been necessary, and it has been effectively interpreted by the courts over the years to prevent the abuse of livestock in transportation by railroad.

In the event that Section 15 is not eliminated by the Subcommittee, serious consideration should be made to clarify its language so as not to limit its applicability to common carriers alone. As presently worded, the Secretary is authorized to issue regulations to assure the humane handling of livestock "by any person having custody thereof in the course of their transportation by railroad, motor carrier, airline, or *other common carrier*" (emphasis supplied). That language would not appear to include those persons or carriers, not common carriers, which are proposed to be subjected to the terms of the Federal Laboratory Animal Welfare Act in addition to common carriers—that is, "intermediate carriers." If

the transportation of livestock is proposed to be regulated—all transportation of livestock should be so regulated.

In any case, Congress has already directed that the Secretary of Agriculture study, investigate, and report to Congress on the transportation of livestock by all common carrier modes by enacting the Agriculture and Consumer Protection Act of 1973, P.L. 93-86 § 1(27) (B), August 10, 1973, 87 Stat. 221. The Secretary is further directed to conduct an intensive research program, in connection with such study and investigation, for the purpose of developing measures that can be taken to reduce the loss of animals during transportation. How is the Secretary expected to issue regulations on the transportation of livestock before completing the research necessary for the development of measures intended to correct problems alleged to exist? It is respectively suggested that all further consideration of the type of legislation represented by Section 15 of H.R. 15843 await the submission of the final report of the Secretary to Congress.

STATEMENT OF MRS. R. A. BRADMAN, ALEXANDRIA, VA.

I respectfully request that this statement be made a part of the proceedings and be inserted in the record of the hearings on the broadening and strengthening of the Animal Welfare Act, P.L. 91-579, to be held August 6, 7, and 8, 1974.

In April of 1974 I became active as a volunteer at the Washington (D.C.) Humane Society Animalport established at the REA Terminal at National Airport, spending a minimum of one evening a week, from approximately 8 p.m. until midnight, sometimes until 2 a.m.

The humanitarian aspects of animal abuse resulting from air transportation will be covered by other testimony, and I heartily concur with it. However, I wish to point out a facet of the problem that might be given additional consideration.

The taxpayer has a stake in this.

If vast sums of money are to be spent on animal research for the benefit of mankind, surely every dollar must count. We must not permit animals to suffer and die before they have even been able to contribute to this research. Improper care, handling and shipping by common carrier is resulting in the suffering, ill health and death of laboratory animals. If additional supplies of animals must be obtained simply to replace shipments of animals made useless for research due to improper handling, additional funds must be spent to accomplish the original purpose.

Furthermore, research is delayed while additional laboratory animals are obtained, holding up an experiment which might potentially be of great benefit to man.

During the time I have been a volunteer at the Animalport, I have seen thousands of mice, rats, guinea pigs, hamsters, ferrets and rabbits which are not properly handled via common carrier to protect or assure the arrival of healthy live animals. Quoting testimony by Mr. John Hoyt, President of the Humane Society of the United States, on page 47 of the Hearings before a Subcommittee of the Committee on Government Operations of the House of Representatives of September 25, 26, 27, and 28, 1973:

"Shippers of birds and mice frequently add an allowance of 10 to 15 animals per hundred ordered to compensate for expected transit losses. Mortalities among animals taken in the wild for sale to research facilities . . . have been estimated at 80-90 percent of total captives."

Although in the past several weeks I personally have seen at least ten shipments of monkeys improperly crated and shipped, I offer two examples:

Case A.—On June 26, 1974, at approximately 10 p.m., a shipment of monkeys arrived in their original containers from Africa, according to the crate markings. The wood of the crates was so rotten it virtually disintegrated while I watched. There were no containers for food or water attached to or inside the crates. Volunteers were helpless to administer to them beyond pouring water through the screening vents onto the floor of the crates.

There was no answer at the National Institutes of Health telephone number listed on the crates as the person to notify upon arrival. It was an office number; no emergency or at-home number was provided.

At 8 a.m. the following morning I telephoned the N. I. H. doctor who was the proper consignee. He assured me that he had no knowledge that this shipment was expected to arrive by air, and said that the monkeys would be picked up. He

mentioned several times that monkeys were becoming very scarce. Obviously the price of monkeys increases drastically as they become more difficult to obtain.

Case B.—On July 17, 1974 at 10 p.m., five crates of monkeys arrived at the REA Terminal. The manifest indicated there were forty cebus variety (Capuchin) monkeys, eight to a crate.

The health certificates stated all were in excellent health with the exception of one who had a visible vision problem in one eye. The crates were approximately two feet six inches, by three feet six inches by 15 inches. The monkeys could not sit upright, and were packed so tightly a trouble light had to be used to see inside the crates. Two were dead that could observe, but we could not ascertain how many others were also dead.

Those visible were obviously suffering from lack of water. The water containers were virtually inaccessible, but they had been nailed in so that they were full of holes. The water poured out as fast as it went in. By pouring water directly at the monkeys through the mesh on one side, the animals were able to grasp the spout of long-necked watering cans and hold it in their mouths as they frantically struggled for water.

They had been shipped from Miami, Florida that day, although their origin was South America. This shipment was going to the same doctor at the National Institutes of Health. Naturally there was no answer to a telephone call at that hour to his office. Once again there was no emergency telephone number. Through a personal contact, a different N. I. H. doctor was notified. He was unable to find someone to pick up the monkeys by truck at that hour. An Animalport volunteer was told the monkeys would be picked up by 8 a.m. the following day. A telephone call to the REA Terminal revealed the monkeys were still there at 8 a.m. the following day.

This is not merely a case of humanitarian appeal. It also involves *large sums of taxpayers' money gone down the drain*. Taxpayers are forced to pay to replace these expensive animals which should have arrived in good health in the first place. Proper enforcement of a much-needed law would prevent this from happening.

I have several other key examples to offer. There is a great misconception that the air shipment problem involves only dogs. This is not true:

Case C.—Recently a "package," completely unmarked as to contents, was pointed out to me as possibly containing something live. It was buried under a large pile of machinery crates and packages to be transhipped. It appeared to be a solid wooden box covered with burlap. Upon close examination, and by holding it up to the light, the outline of a swan was revealed. The box was actually of wire mesh on a wooden frame.

As the crate was nailed shut, and there were no openings, I could not ascertain whether any food or water had been supplied. Certainly in handling in transit it could have been turned upside down and water poured out, as there were no crate markings to indicate it contained anything alive. After the top was opened with a tire iron, water was poured in a stream from a watering can which the swan eagerly gulped down.

The swan had spent the day traveling from a Salisbury, Maryland zoo as far as the National Airport. It was to be transhipped to a zoological garden in Jackson, Mississippi. I contacted the Curator of Birds at the Washington, D.C. Zoo the next day. He assured me that swans require water at least every six hours.

I do not know if the swan arrived still alive, nor do I know what funds were involved. However, zoos are mainly supported by the taxpayer.

I do have an example concerning dogs:

Case D.—On two separate occasions within a period of two weeks, to my personal knowledge, a hunting dog valued at over \$300 arrived at National Airport. (They came from two different shippers.) Both were so improperly and inadequately crated that they escaped onto the runway, creating hazards to flying activities and facing possible destruction. Fortunately they were recaptured.

Among the groups concerned with this legislation, such as Humane groups and pet breeders, the military too has a stake in this. As a military wife of a career officer for over twenty years and a pet owner, I have been forced to ship my pets many times during frequent moves that are required to accompany my husband on various tours of duty both in the United States and to foreign assignments. I was not aware of "what could and might happen" until we were transferred from the San Francisco area to Philadelphia.

Case E.—My parents accompanied my pets to the airport and remained with them until the last minute of loading the plane. My husband was to pick them up at the Philadelphia airport when their flight arrived.

Upon the plane's arrival, there was no dog and cat. Upon inquiry of airline personnel at the airport, my husband received a very indifferent response. At no time were suggestions offered as to what might have occurred.

After two long distance telephone calls to my parents and obtaining the waybill number from them, my husband returned to the airline personnel to request an inquiry be made and tracing operations be initiated. No action was taken by the airline until my husband threatened to telephone the president of the airline and get him out of bed if necessary.

As a result of my husband's threat and insistence, the animals were finally located sitting in the Pittsburgh airport. Since my husband is an ex-flyer, he was aware of the dangers of shipping anything alive in an unpressurized, unheated area of an airplane. He insisted that the animals be sent to Philadelphia in a suitable and safe compartment. He made sure that this was done by going out onto the runway to see them being unloaded upon their arrival. They came out from the pilot's compartment!

By the time he returned home with the animals it was 2 a.m. They had been en route sixteen hours from the time they left San Francisco. Airline personnel had failed to remove them from the airplane at the Chicago stopover. Upon their arrival in Pittsburgh, no attempt was made to notify the Philadelphia office of their location.

Needless to say, every effort will be made in the future to transport our pets in a less perilous fashion. But for my husband's threats, I do not feel at all sure we would ever have found them.

The American consumer is told that his pet will be properly cared for by the common carrier that accepts it for shipment.

REA tells us it will refuse to accept an improperly crated animal for shipment.

I have seen too many cases where this is not done.

I do not believe that a pigeon placed in a cardboard hatbox has been properly crated for shipment. I have seen this very situation at National Airport's REA Terminal.

I do not believe that the American public should have to pay for the results of certain big businesses, specifically common carriers, not even abiding by their own rules.

I do not believe that common carriers should be excluded from the Animal Welfare Act or any amendments thereto.

There is no excuse for a lack of legislation in this regard.

STATEMENT OF EDWARD NEWMAN, PRESIDENT, CALIFORNIA HUMANE COUNCIL,
WOODLAND HILLS, CALIF.

Growing affluence in the U.S. during the last decade has greatly encouraged the demand for pure bred dogs and cats. The growth can be measured in statistics available from the American Kennel Club which reveal that dog registrations have jumped from a total in 1962 of 516,000 to 1,129,200 in 1971. (See article "AKC and the Pet Market, American Kennel Gazette Pure Bred Dogs, March 1973, pages 10 ff.) "Mass producers, paying no attention to adequate care of their pregnant bitches or young whelps . . . market pure bred dogs for minimal prices. As such, it utilizes the techniques of marketing for the general public: 'sales' gimmicks, promotion, advertising, and so on." (quoted from above reference). This represents of 250% increase in dog registrations.

That large numbers of dogs are shipped in interstate commerce is evident from information I have been given as reported by the American Dog Owners Association that more than 700,600 dogs were produced by puppy mills and shipped to dealers during the year 1971. These animals were characterized by ill health, false papers, and inherited defects. This condition is perhaps encouraged by the AKC's practices, especially with regard to dogs, in registration. It has been charged that the AKC offers an unrestricted registration system which registers an entire litter but not the individual animals in the litter. The registrations had no provisions for determining the actual health, ancestry or identity of the animals. In addition, the AKC has been accused of encouraging puppy mills

to increase as a result of its supposed "easy" registration procedures. Breeders, as a result, can apply for litter registration papers for more pups than were actually whelped. The result of such wholesale registrations is that large numbers of dogs are shipped out without health checks and certification by veterinarians. (See Exhibit E.)

The growing numbers of puppy mills and the ease of AKC registration methods have encouraged the proliferation of more breeders. One organization, calling itself the K-9 Association, publishes a list of breeders and offerings directly to pet shops and to individuals who wish to enter the breeding business (see exhibit A). This organization listed 100 puppies at 3 weeks of age, 39 at three weeks of age and 82 at four weeks of age—too early to be taken from the bitch unweaned.

False advertising and misleading statements characterize much of the puppy mill increase (see Exhibit F). In the case of the Docktore's Pet Shop of Sacramento County prosecuted by the District Attorney there, in 1973, false and misleading advertising was the basis for legal action. According to a letter from the District Attorney, a large number of dogs sold by this particular outlet came from midwestern puppy mills. If the animals are not saleable, they are destroyed or given away. Those that are sold are offered at high prices with the suggestion that the buyer can recoup his initial high cost by entering the breeding business himself. This results again in unsaleable animals since the breeder is often a novice and lacks the experience and techniques for producing saleable dogs.

In another case (Exhibit B) a puppy was shipped from its place of birth in Iowa to various destinations in different states in nine days before arriving at her owner's home. The animal's condition was unsatisfactory and a local veterinarian diagnosed the animal's condition as a case of hookworms and pneumonia.

In Los Angeles, the general demand for pure bred dogs and cats is increasing. A sizeable proportion of breeders from other states advertise in the classified sections of the Los Angeles Times. We found 22 such ads in one month's time and a few from foreign countries! From the Los Angeles area, itself, we found over 137,000 classified ads in just two Los Angeles metropolitan newspapers in one year from 1971 to 1972. Allowing for repeat ads and those inserted by commercial kennels, we had remaining more than 82,000 ads. If we assume five animals per litter, the total animals produceable could amount to more than 400,000 annually. (Exhibit H)

In addition, we personally telephoned more than 1,000 breeders advertising in local newspapers. A majority reported that they planned to have further litters and some admitted they had been in business for many years. Written evidence for this is available in a volume soon to be published.

Most breeders pay not city nor state sales taxes and buy no city business licenses. They conduct their business illegally in residential zones. The financial loss to the city of Los Angeles from this source is estimated at more than two million dollars annually. The loss to the state of California is estimated at between \$15 and \$16 million dollars annually. (see Exhibit I)

We strongly believe the imposition of controls of breeding locally as well as in interstate commerce is badly needed. We have proposed a bill in the state legislature, AB 3922, to license breeders and restrict the numbers of litters they can produce. We also urge the passage of the Foley bill, HR 15843, as a step in the right direction.

[The exhibits referred to are retained in the committee files.]

THE CHARLES RIVER BREEDING LABORATORIES, INC..

Wilmington, Mass., August 19, 1974.

Congressman THOMAS S. FOLEY,
Chairman, Sub-committee on Live Stock and Grains,
Washington, D.C.

DEAR CONGRESSMAN FOLEY: The Charles River Laboratories, Inc., is a major supplier of laboratory animals for biomedical research. The Company has been involved in this field for over twenty-seven years and therefore has had much experience in the transport of animals. With facilities in Massachusetts, New York, New Jersey and Michigan, we have had the opportunity of experiencing the various methods of transportation available to us in all parts of the United States. With this background in mind, we would like to comment on certain areas of the above noted proposed House Bill, where it is felt that certain points should be excepted when applied to laboratory animals.

Sec. 13, subparagraph (b) indicates that a licensed veterinarian must certify that the animals are sound and healthy so that they may reasonably be expected to withstand the rigors of intended transportation. This we feel is not practical when dealing with small laboratory rodents since they are shipped in quantities of as much as 1,000 or more per delivery. It is unrealistic to expect that each individual mouse or rat has been examined by a veterinarian prior to shipment. Since these animals are used in critical medical research, the health standard requirements by the users or these animals are very exacting and therefore impractical as well as unnecessary to require a veterinary certification. The application as well as a veterinary inspection certainly is appropriate when dealing with larger animals that are individually identifiable, but in the case of those animals used in research, we feel an exception to this rule should be made.

Subsection (c) which deals with the minimum age requirement of eight weeks also would create problems if this rule were applied to animals used in biomedical research. There are many research projects that deal with very young animals whose age can be measured in days but special precautions are taken both to the shipping containers and protective filtered materials that ensure their safe delivery. It would be quite a problem to leave this point discretionary since there are such varied areas which could delay programs that have no relevance to the purpose of this section of the Bill. Again, we would urge that laboratory animals be excepted.

Subsection (d) which prohibits collect shipments also should not be applicable to laboratory animals. Many large corporations, particularly in the pharmaceutical industry, prefer that their shipments be collect so that they can better control their transportation costs as well as having all the waybills and other transportation documents be held at the point of destination. This enables them to check if problems do occur instead of having to call the shipper who will then contact their local office and waste a good deal of time in getting the necessary information. It is certainly understandable that the intent of this provision is to protect animals who might be shipped on a collect basis and then be refused by the consignee. Since those institutions that are involved in the medical research field are of financial substance, the problem of refusal does not occur.

This company is most sympathetic to the intentions of this Bill and support it with the exceptions noted above. It is our understanding that this letter will be made part of the record of the hearings.

Very truly yours,

SUMNER J. FOSTER,
Executive Vice President.

CONSUMERS UNION,
A NONPROFIT ORGANIZATION,
PUBLISHER OF CONSUMER REPORTS,
Mount Vernon, N.Y., August 14, 1974.

HON. THOMAS S. FOLEY,
*Chairman, Subcommittee on Livestock and Grain, House of Representatives,
Longworth Building, Washington, D.C.*

DEAR MR. CHAIRMAN: Enclosed is a copy of the March, 1973 report "Should Your Pet Travel By Air?," published in *Consumer Reports* magazine.

I would appreciate your including this report in your published hearing on the transport of animals.

Sincerely,

JOHN GALLOWAY,
Assistant Editor.

[The report is retained in the committee files.]

COUNCIL FOR LIVESTOCK PROTECTION, INC.,
(A NON-PROFIT RESEARCH AND EDUCATIONAL ORGANIZATION),
Braintree, Mass., August 7, 1974.

MISS ANITA BROWN,
*House Agriculture Committee,
Washington, D.C.*

DEAR MISS BROWN: Would you be kind enough to record this Council as being in favor of H.R. 15843.

Sincerely,

JOHN C. MACFARLANE,
Executive Director.

STATEMENT OF DR. LEE ELLEN FORD, ATTORNEY AND EXECUTIVE ASSISTANT
TO GOV. OTIS R. BOWEN, M.D. STATE OF INDIANA

This is a brief statement indicating our support for strong legislation to control and enforce violations involving dog fighting in the United States. We accept the basic state responsibilities in this area and support federal legislation based on the Commerce Clause of the Constitution which will strengthen and cooperate with the states, but not preempt existing state statutes.

We support designation of prohibition on dog fighting and violation of same being a major crime with substantial fines and imprisonment. We support adequate subpoena authority to allow the state attorney general's office to subpoena witnesses from other states. We also support additional strict, stiffer penalties for the repeated offender.

We believe that confiscation of animals and equipment upon conviction is essential to stamping out this terrible activity and believe that adequate enforcement funds and qualified staff with adequate authority is a must for effective control.

STATEMENT OF PAUL ZILLMAN, PRESIDENT, LIVESTOCK CONSERVATION, INC.

Livestock Conservation, Inc., is a 58-year-old, nonprofit organization composed of 195 member organizations and firms representing most sectors of the livestock and meat industry.

Our main objective is to stimulate the reduction of meat and milk losses that result from diseases, parasites, bruises, cripples and deads. All of our work in reducing these losses is predicated on the humane treatment and handling of meat and milk animals.

The distribution of copies of H.R. 15843 to the 48 members of our Board of Directors and a compilation of their replies lead to the following recommendations:

1. Our directors are unanimous in supporting more humane treatment of all animals.

2. They are opposed to the portion of the bill that would grant to the U.S. Secretary of Agriculture such broad powers to establish regulations applicable to carriers and handlers. A Secretary of Agriculture who was not completely familiar with the problems of livestock handling and movement would create chaos in the meat industry.

Several board members mentioned the need to fund the Bellmon Bill and to undertake sufficient research to develop reliable guidelines for the movement of livestock. Other members suggested the Secretary of Agriculture should appoint an advisory committee from the industry to develop new regulations covering the movement of large animals. The regulations that presently apply to rail transit are antiquated and do not fit today's livestock-trucking program.

3. Our replies indicate unanimous opposition to Section 10(b), lines 24 and 25 and lines 1 through 10 on pages 4 and 5 of the bill if it refers to meat animals moving toward a slaughtering plant.

This opposition is based on the fact such animals will be subject to a complete inspection on the kill floor, which will be far more complete than a visual inspection of the live animals. Visual inspection and the issuance of health certificates on slaughter animals would be not only unnecessary but also costly and could slow down the movement of meat to consumers, since veterinarians are not always available to make inspections.

4. Most of our board members favor identification of market (meat) animals and the retention of these records for a reasonable period of time since these procedures materially will reduce the cost of disease eradication and will enable producers throughout America to provide more wholesome meat.

It is my personal opinion that the National Council of Animal Transportation, chaired by R. T. Phillips of the American Humane Association, is doing an excellent job in improving the handling of animals, particularly those transported by air. The organization is composed of an excellent, highly qualified group of personnel.

For the past 40 years Livestock Conservation, Inc., has maintained an active committee on Livestock Safety dedicated to the reduction of bruises, cripples and deads resulting from transportation problems, poor facilities and inhumane handling. It would not be difficult to justify devoting full time to this phase of our program, since the losses still are large and are all man-made.

We at Livestock Conservation, Inc., feel we have a never-ending task of educating producers, truckers, market men and handlers on the proper care and handling of livestock.

STATEMENT OF ALVAH W. SEVERSON, SECRETARY-TREASURER, NATIONAL FOOD AND CONSERVATION THROUGH SWINE, INC.

National Food and Conservation Through Swine, Inc., with the short name commonly known in livestock as National FACTS is desirous of having this statement made a part of the proceedings of the hearings held on H.R. 15843 during August 1974.

National FACTS has members in practically all of the states. Its membership recycles food waste through swine and production reaches from 1½ to 2 million hogs annually. This production saves scarce and already high priced grain for use in feeding steers, dairy and poultry and the remainder of the hog production.

National FACTS members would like to be reassured that Section 2, page 1 of H.R. 15843 includes only those animals covered by the 1966 Animal Welfare Act as amended in 1970 and does continue to exclude livestock, domestic farm or meat animals from Sections 2 through 14. The exclusion of livestock in the 1966 Act is noted in Section 15, page 8 of this amendment, "livestock (as excluded in section 2(f) of the Act of August 24, 1966, as amended)". National FACTS believes there is no need for Section 15, page 8 of this amendment. The Secretary of Agriculture has all the authorization needed under other laws already passed.

Hog producers, plagued with hog cholera for a decade or more have just rejoiced in the fact that the United States has been declared hog cholera free. However, the stringent and precise regulations that were issued as to the movement of feeder pigs as herd replacements, hogs going to slaughter, operations of auction markets, dealer and farmer and carrier records, identification as well as other regulations are still with us. They will probably never be rescinded as long as there is disease that can become epidemic. The swine industry is regulated under Title 9. Part 76. Every producer is interested in the continued health of his animals. This applies not only to hog producers, but other livestock producers as well. Only a healthy animal brings cash at the slaughter house where it is inspected and passed or condemned. Livestock producers need help, not more regulation. So exempt livestock from this amendment and eliminate section 15. Thank you.

SOCIETY FOR HUMANE LEGISLATION, INC.,
PEWAUKEE, WIS.

Hon. THOMAS S. FOLEY,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN FOLEY: Please include this statement pertaining to my recent experience in the record.

After spending Monday Aug. 12 at the Wisconsin State Fair my friend and I were leaving for home at about 6:30 P.M. While passing cattle trucks that were being loaded with animals from the 4-H exhibits we stopped to help some 4-H girls who were almost in hysterics. We heard them crying and telling the trucker their animals would die if they were all crowded into the single level truck.

On the way to the Fair it took a double decker to handle the swine, dairy cows, steers plus six big show boxes, even then one hog died. Janine Huber, Rt. 2, Poynette, Wis., Kim Lang, Fall River, Wis., two other girls and two more young boys whose names I didn't get were the owners of these animals. Mike Briski from the Duffy Bros. Trucking, Columbus, Wis., was the driver and trucker in charge. He was arrogant and uncooperative, asked what I was going to do about it. I answered that the girls had warned him that some of the animals would die due to overcrowding, the long trip home plus some of the animals were pregnant. I asked him to take this into consideration. I too, was ignored.

Fortunately George Dehnert, U.W. Ext. Official and Jr. Fair Cattle Supt. was still on duty. I requested he accompany me back to the truck and settle the problem. This he did, and after checking over the situation he told the truckers he would allow three or four more calves to be loaded. As Dehnert was leaving the truck, Mike said, there was room for eight or nine. Dehnert then stayed to see

that the cattle were properly loaded. A second truck was summoned to transport the rest.

I dread to think what would have happened if my friend and I didn't just happen to be walking by at that particular time, and if George Dehnert hadn't been alerted about this problem.

This was my most recent experience, however, throughout the years I have had many complaints and I have always strongly felt that consideration and humane transportation of food animals is a must. If they have to be killed for food, then at least make their short lives as painless as possible, including transportation.

Sincerely,

Mrs. LUCILE HUNT,
President.

SKAGIT ACADEMY OF HAIRSTYLING,
611 FIRST STREET,
Mt. Vernon, Wash., Nov. 20, 1974.

Mr. FOLEY: Recently read an article in which it stated you were calling for a Federal Law to outlaw dog-fighting.

It seems to me that it is a shame, since you are paid by taxpayers money, that you can't find a more worthwhile cause to spend your valuable time on. There are many more projects it would seem to me that you could gainfully use the taxpayer dollars to justify your salary.

To me this is another Sunday school do-good project, sponsor by a bunch of churchy old people with nothing better to do.

Now to set you clear on a few other points. First and foremost these dogs are specifically bred, not as stated by crossing bulldogs & terriers, but as a U.K.C. recognized bred "Pit Bulls". They are bred to fight—but they enjoy the action or they would not do it.

This bunk about giving puppies kittens to kill to develop a taste for blood is a crock of B.S. Very few dogs die as a result of the actual fighting—but in truthfulness a small % die from over-exertion—which can be said of race horses.

I have never seen any one kill any animal or fowl & pour blood or have any blood or any other additional stimulant to increase the dogs desire for combat.

You congressmen & senators are slowly but steadily taking away any and all of the personal freedoms that once made this country great.

I have never met you—but if you at any time would like to have a further discussion on this matter I would be more than happy to discuss this with you.

Disgustedly Respectful,

LYLE UTCHELY.

MESA, ARIZ., September 24, 1974.

Representative JOHN RHODES,
House of Representatives
Washington, D.C.

DEAR CONGRESSMAN RHODES: We earnestly hope to see the vicious and sadistic practice of dog fighting stopped as soon as possible. When the proposal is brought before the House to make dog fighting a federal offense, we ask you to vote in favor of it. Federal authorities should be better able to "crack down" on the people involved and see that they are brought to justice than local groups can.

Please, Congressman Rhodes, help to see that this inhumane practice is ended!!

Thank you for your time and attention.

Sincerely,

DANIEL WITT,
PATRICIA WITT.

TEMPE, ARIZ., September 19, 1974.

DEAR CONGRESSMAN JOHN J. RHODES: I am a student at Connolly Jr. High. I live in Tempe, Arizona. I am 12 years old. My name is Kathy Vinyard. I am writing to you about the sport of dog fighting to the death. I want it to stop. My favorite animal is dogs. In years from now there won't be any dogs for pets. God made dogs for pets, not for people to destroy them, play games with them, or even make money from them. Please, Congressman John J. Rhodes read, understand and listen to my letter. I hope it will help.

Thank you very much.

KATHY VINYARD.

RT. D, Box 8,
Clayton, Okla., Nov. 7, 1974.

HON. THOMAS S. FOLEY,
Committee on Agriculture,
Washington, D.C.

DEAR SIR: First off, I want you to know that I don't fight my dogs; I just raise and sell the crazy loveable animals. The American (Pit) bullterrier dogs make wonderful Pet, (house and yard.) stock dogs, hunting dogs, and guard dogs.

You have been fed a bigger line on raising a *pit dog* than the people of this country has been on Watergate and the corrupted bunch of people in Washington.

I'll send you a male or, female pup & I'll have someone from here to Alaska, old mexico—Hawaii or anywhere else send anyone you choose each the same age. Then You and who you choose Raise your dogs just like you would a poodle or any other breed of dog. Love it. Let it. Make sure it gets its shots taken to a Vet when it's needed for 2 years, then make sure they weigh exactly the same. And you take your dog over to where the other dog is and just put them down where they can see each other. And if they don't fight I'll eat a pound of mice, or rats and raw too. Or that mess they've told you that is fed to them to make mean and crave blood. Like the mess I've read on this silly nonsense.

I'd like to know just how you can say pitting dogs is any more cruel than it is for a man to take several old poor hounds off chain or pen & turn them loose to hunt. Mountain lions, Coons, wolf, bear, bob cat, or wild hogs. A dog may weigh 35# to 75# *put on* another animal up to 250# & 300# to 700# a hog can rip a dog from stem to stern & I've seen it done to as many dogs as 3 by one old hog in a briar patch. The owners just shake their heads & walk off to leave the dogs to die.

What about the canine Corps? Those dogs are trained to kill *humans* & be killed.

These hound men will run a dog until their pads are raw & bleeding for as many as 30 hours. None of those animals have a say in the matter, they are bred to hunt & run. Cows, Hogs, Sheep, Chickens, Horses, ducks, geese, rabbits & Etc. dont's have a choice whether they want to be eaten or to just romp & play.

Now a pit man raises his dogs for 2 years. Then trains the animal for 6 weeks just as good & fine lived as any boxer ever was & fed good clean meat & vegetables. Then he's matched to weight. After the match there is a Vet. at most matches to take care of their animals. None of them wants to loose a dog but sometimes it does happen just as boxers have killed their opponent.

So when you talk cruelty to animals there's lots more ways to be lots crueller that fighting them. I can show you dogs without any hair on their bodys just a raw mess from mange. The owners won't treat them or kill them & get them out of their misery.

There's by far more dogs killed or maimed by hunters than there is by pit dog fighting. Stockmen use dogs to catch cows & horses; I saw a man take a 2x4 board & knock a dog loose from a cow tearing a large hunk of flesh off the cow & breaking the dogs jaw bone and 2 canines out all together. It made me plum mad & sick. I haven't spoke to him since that day on.

I feel that to be fair to the animals and people You should Jail & fine anyone who uses & mistreats any animal cruelty. And there's going to be more on the subject from all over if the pit men are made to be a felliny; They arn't cruel or stupid they don't bother anyone. Where hunters do. And they won't take it lying down. Them do gooders don't look past their own stupidity.

No Sir I don't fight my dogs but if I wanted to I sure would; And holler to high heaven if I was ever fined a dollar.

This is probably a waste of time but if there's any fairness left in this good old U.S. of A.—I being you—did take a second look & see just where cruelty really is.

T. P. WARREN.

(The following responses to questions submitted by the subcommittee were received:)

U.S. DEPARTMENT OF AGRICULTURE,
ANIMAL AND PLANT HEALTH INSPECTION SERVICE,
Washington, D.C., October 29, 1974.

Hon. THOMAS S. FOLEY,
Chairman, Subcommittee on Livestock and Grains,
Committee on Agriculture,
House of Representatives, Washington, D.C.

DEAR MR. FOLEY: This is in reference to your letter of September 25, 1974, regarding questions from the Subcommittee on Livestock and Grains on transportation of live animals and changes in the Animal Welfare Act.

The answers to the questions are numerically numbered in accordance with the sequence of the questions contained in your letter.

(1) All veterinarians have a minimum of 6 years of college education. Two years of preveterinary medicine and 4 years of veterinary medicine are required for the Doctor of Veterinary Medicine (D.V.M.) degree from a recognized school of veterinary medicine.

Formal instruction on large and small animal medicine and surgery is divided equally to prepare a candidate for the D.V.M. degree. General practice necessitates a thorough knowledge in each discipline. Specialization in one discipline is accomplished pursuant to the D.V.M. degree.

Most veterinary employees of the Animal and Plant Health Inspection Service, Veterinary Services, have practiced at least 1 year in small or large animal medicine. Also most veterinarians have received formal training in enforcement of the Animal Welfare Act, as well as on-the-job experience.

(2) Of the \$2,068,195 expended, \$188,149 was used for overhead and \$1,880,046 was spent to accomplish 75 man-years which includes 62 field and 13 staff man-years of Animal Welfare program work.

Procedure	Accomplishments
Dealers licensed.....	1, 882
Exhibitors licensed.....	87
Complaint investigations.....	546
Investigatory file preparations.....	46
Inspection for compliance:	
a. Licensed dealers.....	7, 690
b. Research facility sites.....	3, 663
c. Zoos (American Association of Zoological Parks and Aquariums)---	161
d. Roadside menageries, circuses, animal acts.....	902
(3) Budget request.	
	Congressional allocation
Fiscal year 1972—\$921,300.....	\$1, 221, 300
Fiscal year 1973—\$2,251,100.....	2, 251, 100
Fiscal year 1974—\$2,350,900.....	2, 350, 900

(4) Research facilities are required to make their annual report on a special form (ANH 18-23).

Although the form is not specifically named in the regulations promulgated under the provisions of the Act, research facilities were issued instructions for use of the form in submitting the annual report.

Instructions for reporting and sufficient numbers of the 18-23 are forwarded to each research facility. The date of forwarding varies from State to State; however, all research facilities receive the material for reporting by January 1. of each year.

(5) The U.S. Department of Agriculture (USDA) has not been working with the Interstate Commerce Commission because the "common carrier" is exempt from the provisions of the Animal Welfare Act.

(6) The word "pet" in the dictionary is defined as "any domesticated or tamed animal that is kept as a favorite and cared for affectionately." Species from the wild (e.g., primates, anteaters, ocelots, etc.) as adults in captivity require special

conditions to provide safety in handling to either humans or the subject animals ; therefore, by definition they cannot be considered pets.

"Retail pet store" means any retail outlet where animals are sold only as pets. If species from the wild state are sold by a retail pet store, the store is subject to licensing because other than pet animals are offered for sale.

(7) Airport inspections were initiated by Department personnel on January 1, 1974. Surveillance has been increased recently because of many deficiencies found with dealer shipments of animals and dealers who should be licensed but have not made application to become a licensee.

The following deficiencies were found during inspections at air terminals the first 6 months of this year:

Lack of water-----	35	No license-----	6
No feed-----	28	Handling-----	8
Cage too small-----	70	Poor facilities-----	16
Cage construction-----	10	Inspection interference-----	1
Sanitation-----	10	Animals too young-----	1
Lack of identification and records-----	42	Total-----	227

As a result of the inspections of dealer shipments at air terminals, 55 apparent violation cases involving one or more of the above deficiencies have been prepared and submitted.

(8) 28-Hour Law—The enforcement of the 28-Hour Law (1906) covering the shipment of livestock by railroad or vessel is an active though limited activity. The program for enforcement consists of: (1) regular inspection of 161 feed, water, and rest facilities used in connection with applicable shipments for compliance with established standards; (2) the inspection of transportation records for disclosure of possible violations; (3) the development, reporting, and processing of alleged violations; (4) prosecution of alleged violations as indicated.

Violations of the 28-Hour Law processed in fiscal years 1969–1973:

Fiscal year:	Cases reported	Cases successfully prosecuted	Penalty
1969-----	300	178	\$19,700
1970-----	519	202	26,900
1971-----	280	171	21,375
1972-----	158	67	7,750
1973-----	225	42	4,650

(9) Many inquiries have been made by USDA to determine if the veterinarian in charge of animal care at research facilities has the authority, delegated by the proper officials, to be reasonably sure that anesthetics, analgesics, and tranquilizers are being used as provided for in the provisions of the Act. In no instance has the Department found unnecessary, painful experimentation being performed on animals covered by the Act.

Research facilities' annual reports have been reviewed with veterinary biologics officials to determine if experiments reported involving pain were necessary. Each report was verified to be correct on pain or stress experiments because of test animals used to meet the requirements of the Federal Food, Drug, and Cosmetic Act, Hazardous Substances Labeling Act, and the Federal Insecticide, Fungicide, and Rodenticide Act.

(10) The proposed rulemaking on space and exercise for laboratory dogs was published in the Federal Register on September 25, 1974.

(11) While the goal of the Animal Welfare Act is compliance, there are instances when deficiencies are apparent during inspections of licensed dealer premises or registered research facility sites. In many such instances, the minor deficiencies can be corrected by recommendations of the inspector. However, when they are flagrant or significant violations, they must be reported directly to headquarters at Hyattsville, Maryland. After careful examination of the alleged violation, the information is transmitted to the Department's attorneys who, depending on the nature of the allegation as determined by the Act, submit it to the appropriate U.S. attorney for criminal prosecution or to the Department's hearing clerk for an administrative hearing before a Department administrative law judge (as provided for under the Rules of Practice, Part IV).

No authority is provided for direct transmittal to the U.S. attorney for prosecution.

(12) The reason for excluding the inspection for missing animals to law enforcement officers (whose duties are limited to local animal regulations) is explained in the House of Representatives Report No. 91-1651, which accompanied the Animal Welfare Act of 1970. Under paragraph 3 of the Committee intent, it is stated: "In regard to the amendment to section 17 of the Act, the Committee intends that inspection under this section shall be specifically limited to searches for lost or stolen pets by officers of the law (not owners themselves) and that the term 'legally constituted law enforcement agencies' means agencies with general law enforcement authority and not those agencies whose law enforcement duties are limited to enforcing local animal regulations. It is not intended that this section be used by private citizens or law enforcement officers to harass research facilities, and in no event shall such officers inspect the animals when the animals are undergoing actual research or experimentation." The regulations do not interfere with local law enforcement of State statutes or local ordinances.

Sincerely,

F. J. MULHERN, *Administrator.*

CIVIL AERONAUTICS BOARD,
Washington, D.C., October 8, 1974.

HON. THOMAS S. FOLEY,
Chairman, Subcommittee on Livestock and Grains, House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: As requested in your letter of September 25, 1974, I am enclosing answers to a list of questions to supplement my previous testimony given before your Subcommittee on the Animal Welfare Act Amendments of 1974.

I appreciate this opportunity to further aid your Subcommittee in its important inquiry into the humane treatment of live animals. If I can be of further assistance, do not hesitate to contact me.

Sincerely yours,

ROBERT J. SHERER,
Director, Bureau of Economics.

Question.—The CAB has undertaken four separate rate investigations having a direct bearing on the transportation of animals since 1968. Please give a brief summary of each of these investigations and their findings and conclusions.

Answer.—(1) *Docket 18014—Revised Air Express Minimum Charge for Live Animals and Birds:*

This investigation concerned the lawfulness of an \$8.00 minimum charge imposed by Railway Express Agency, Inc. (REA) and the direct air carriers on air express shipments of live animals and birds, as compared to a minimum charge for general commodities of \$5.50. In a decision issued in February of 1968,¹ the Board determined that the proper minimum charge for air express shipments of live animals and birds was \$6.25. This was determined by adding to the general commodity minimum charge the additional costs incurred by reason of special handling of live cargo.

Since the date of that order, REA has increased the minimum charges on both general commodities and live animals and birds in recognition of cost increases. At the present time, the minimum charges are set at \$12.55 for general commodities, and \$13.02 for live animals.

(2) *Docket 21474—Investigation of Premium Rates for Live Animals and Birds:*

This proceeding involved a three year inquiry into the rates of the air carriers for the interstate transportation of live animals and birds, and the rules, regulations, and practices relating to those rates. At the time the investigation was instituted, in September of 1968, the domestic air carriers charged a series of premium rates for the interstate transportation of live animals. These rules varied among air carriers and by type of animal, and ranged from 135 to 235 percent of the general commodity rates. The carriers claimed that the premium

¹ Order E-26405, dated February 26, 1968.

rates were justified by two factors: that live animals required additional free air space in the cargo compartment and should be charged for this space; and that live animal shipments entailed additional handling costs.

In its decision issued in June of 1973,² the Board found that the record failed to justify the premium rates imposed by the carriers, and that those rates were unlawful. It rejected the carriers' argument that animals should be charged for more space in the cargo compartment than they physically occupied, pointing out that free air for live animals was available by stowing them in close proximity to the otherwise unusable space near the cabin doors. In addition, the Board determined that, contrary to the carriers' assertions, there was no substantial increase in handling costs incurred by reason of the live animal shipments.

The Board held that the lawful domestic freight rates for warm-blooded live animals and birds should not exceed 110 percent of the general commodity rates, and that the charge for cold-blooded animals should be no higher than the general commodity rate. However, the Board noted that its determination was interim in nature, and that the question of freight rates for live animals and birds should be reconsidered in Docket 22858, the Domestic Air Freight Rate Investigation, discussed below.

The Board also focused in Docket 21474 on the rules of the air carriers with respect to live animal transportation. It was found that the air carriers had a series of restrictions on live animal transportation which were published in industry trades magazines and cargo service manuals, but which had not been incorporated in their tariffs. The Board held that all terms and conditions relating to the acceptance and carriage of live animals must be published in their tariffs, and ordered the carriers to file all these rules.

Finally, the Board made the following determinations with respect to certain specific tariff rules relating to the shipment of live animals:

(1) Rules providing for an exclusion from liability for loss or damage to live animals are unlawful if they exclude carriers from liability for damage resulting from their own negligence.

(2) Rules establishing a lower declared value for live animals than for other types of freight are unlawful.

(3) The exclusion of live animals from C.O.D. service is unlawful, and imposes a discriminatory burden on the live animal shipper.

(4) Failure to make pickup and delivery service available to live animal shipments is inconsistent with the airlines' common carrier obligations, and is unreasonable.

(3) *Docket 19923—Liability and Claims Rules and Practices Investigation:*

This investigation concerned the lawfulness of carriers' rules relating to liability for loss or damage to air freight. Included was an examination of rules as to limitation and exclusion from liability, declared value, excess valuation charges, claim procedures, and a series of related carrier practices. Although the investigation was concerned with rules applicable to all commodities, a good deal of attention was focused on those rules which specifically applied to live animals, as it was in this area that limitation or exclusion from liability had been particularly widespread.

There has been no final decision by the Board, but an Initial Decision was served July 23, 1974, in which the Administrative Law Judge made the following pertinent findings:

(1) In applying the "negligence test" to freight loss, damage, or delay, the carriers should have the burden of proof as to the absence of negligence. The proceeding revealed that, as a practical matter, many claims had been denied by the air carriers on the ground that they were not negligent.

(2) The acceptance by the carrier of a shipment would be prima facie evidence of the shippers' compliance with the packaging requirement of the carrier. Thus, carriers could not allege that they were not liable for damage on the grounds that the packaging was inadequate.

(3) The carriers' monetary limit of liability should be increased from \$50 on shipments of 100 pounds or less, or 50 cents per pound on heavier shipments, to \$8.16 per pound on all shipments which would match the international rates. This latter figure has since been raised to \$9.07 per pound, because of dollar devaluation.

² Order 73-6-103, dated June 26, 1973 (copy enclosed).

(4) Specific tariff rules on the part of a number of air carriers which provided for a complete exclusion from liability for live animal shipments, were found to be unlawful. Basically, the carriers submitted no evidence in the record to justify this rule.

(5) Carriers should publish in their tariffs on file with the Board the specific packaging and marking requirements they intend to impose on all shipments. Although the carriers informally publish their rules in various trade magazines and company manuals, they did not publish the rules as part of their formal tariffs.

(6) Carriers should publish in their tariffs specific information with respect to the temperature variation, altitude and pressure variation, and the shock forces that shipments may encounter in air transportation. Despite the assertion of carriers that the shipper knows his product best and should pack accordingly, only the carriers know the environmental hazards of air transportation.

(7) When shipments contain live animals (except insects and worms), the number of animals must be specified on the airbill. In addition, all airbills used by air carriers for both local and interline shipments are required to be published in the tariffs. With regard to specifying the number of animals in a shipment, this ruling differs from an earlier ruling made in Docket 21474.

(8) The denial of C.O.D. service to live animal shipments is unlawful and discriminatory. Again the carriers could not justify this discrimination with respect to live animal shipments.

(9) Pickup and delivery service must be provided on a non-discriminatory basis for all types of freight. Thus, pickup and delivery could not be denied to live animal shipments where such service was available to all other types of freight.

A number of parties petitioned for review of the Initial Decision and briefs and oral arguments before the Board have been held. However, as indicated previously, the Board has not yet issued its final decision in this case. I am enclosing for your information a copy of the Initial Decision which, of course, is not binding on the Board.

(4) *Docket 22859—Domestic Air Freight Rate Investigation:*

This proceeding was instituted by the Board in December 1970, to investigate all scheduled domestic air freight rates and charges, the first such inquiry since 1948. Because of the great importance of this proceeding in determining the structure and level of freight rates for the future, its findings with respect to live animal freight rates will take precedence over the 110 percent rate allowed in Docket 21474. This was explicitly recognized by the Board when it handed down its decision in the earlier investigation.

The freight rate investigation has been an extremely complex proceeding. A considerable amount of data on freight traffic characteristics and costs were collected and analyzed. In addition, a study of terminal handling man-minutes was undertaken by the Ralph M. Parsons Company. A two month hearing was concluded in April of this year, and the case is presently pending before the Administrative Law Judge for decision.

While we cannot predict the Judge's decision, we note that the Parsons Study of terminal handling man-minutes substantiates the Board's finding in Docket 21474 that the costs incurred in handling live animal traffic are not substantially higher than those incurred in handling other types of freight.

Question.—What is the current status of the investigation on live animal rates and when is this investigation scheduled to terminate?

Answer.—As I testified before your subcommittee, the current investigation, Docket 26310, concerns the rules and practices relating to the acceptance and carriage of live animals in domestic air freight transportation. I enclose a copy of the Board's Order of Investigation and a subsequent order clarifying the issues. This proceeding is a departure from our previous cases which were also concerned with the rates carriers could charge for air transportation. Currently, the rates for the domestic air freight transportation of live animals are being reconsidered in the context of the Domestic Air Freight Rate Investigation, referred to above. The instant investigation will only concern itself with the rules applicable to the transportation of live animals and any rate adjustment that might be required would have to be considered in a subsequent proceeding.

Docket 26310 is currently in its preliminary stages. A Prehearing Conference before an Administrative Law Judge was held on May 14, 1974. The Board recognized, in its Order of Investigation, that the issues in this proceeding are so complex that it might be desirable to hold informal proceedings to attempt to resolve or narrow the issues. Accordingly, at the Prehearing Conference two Working Groups were established to consider the various questions involved. One

Working Group is considering the problem of "Acceptance, Packaging, and Documentation," and the other is concerned with "Ground and Flight Environment and Priority of Carriage." Four Working Group Meetings have been held thus far, in June and August of this year.

I can give you no schedule for termination of this investigation. Those issues which cannot be resolved in the Working Group will be considered in the context of a full evidentiary hearing before the Administrative Law Judge. A hearing of this nature is always time-consuming, and this proceeding particularly so, because of the large number of shipper and humane organizations that have actively participated in the investigation to date.

Question.—What has been the participation of the FAA and the USDA in the current investigation on live animal rates?

Answer.—Both the FAA and the USDA are formal parties to this investigation. USDA has been particularly helpful and has sent a number of representatives to the Prehearing Conference and each meeting of the Working Group. USDA has agreed to help develop a standard form of health certificate which could be used for all types of live animal shipments.

The participation of the FAA has been limited to sending a representative to the Prehearing Conference. They have not attended the Working Group meetings to date. In addition, FAA has informally indicated to the Bureau of Economics that they have made no studies on flight environment which would be helpful to our investigation.

Question.—What was the CAB participation in the FAA rulemaking procedure which established a regulation on the segregation and securing of live animal freight within cargo holds?

Answer.—The Civil Aeronautics Board, through the Deputy Managing Director, noted its general support for the rulemaking proceeding in a letter to the FAA dated May 9, 1974. At the same time, however, we pointed out that one of the issues in Docket 26310 concerned the proper stowage of live animals, and we suggested that this question might be resolved in the context of our proceeding. In addition, we noted that other issues in our investigation included proper packaging standards and flight environment, matters which in our view would be appropriate for further FAA study in the context of our case.

Question.—What statistics has been the current live animal rate investigation of the CAB been unable to uncover that would indicate the number of animals transported by air that suffer injury or die as a result of their journey by air?

Answer.—We have compiled no data on the number of animals that have suffered injury or death within the context of the present live animal rules investigation.

However, the investigation in Docket 21474 did contain statistics on live animal claims. In that case, the Air Transport Association (ATA) loss ratios were introduced into evidence. The ATA loss ratio calculations are simply the amount of claims paid in relation to revenues received. For calendar year 1970, the loss ratio for all freight was 1.89. In comparison, the loss ratio for live animals was only 1.27. Only in the case of poultry (loss ratio 15.07) and fish (loss ratio 4.56) did the record demonstrate that live animal claims were higher than those for regular freight.

In addition, the Office of Consumer Affairs at the Board, for the period March 1973 through April 1974, received 122 complaint letters plus about 40 questionnaires in response to an OCA survey, regarding live animal transportation. Of these, 34 letters reported deaths of animals; 19 reported injuries; and 41 listed delay in shipment.

In addition, we are contemplating requesting that this type of information be made part of the record in Docket 26310.

Question.—What are current CAB tariff regulations that would have a direct bearing on the humane handling of animals while in transit?

Answer.—There are presently no CAB regulations, as such, regarding the humane handling of live animals in air transportation. Under the Federal Aviation Act of 1958, the air carriers are required to file with the Board tariffs containing all rates for air transportation, and all of their rules. Pursuant to the Act, and to the Board's final order in Docket 21474, the carriers filed a series of new tariff rules with respect to the transportation of live animals in December of 1973. The Board received a number of formal complaints to these rules, and on January 14, 1974, suspended some of the rules and ordered that they be investigated. The investigation of the specific tariff rules is the major part of our ongoing proceeding in Docket 26310. The maximum period of suspension as pre-

scribed by the Federal Aviation Act is 180 days, and this period was ended on July 14, 1974. However, although the period of suspension has been terminated by law, the investigation into the specific rules is continuing in Docket 26310, and the Board may require changes in any rules it ultimately finds to be unlawful.

I enclose for your information, the specific tariff rules relating to live animals that are currently on file with the Board, and are the subject of investigation in Docket 26310.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,

November 25, 1974.

Hon. W. R. POAGE,
Chairman, Committee on Agriculture, House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: We would like to take this opportunity to offer our comments on H.R. 16738, a bill which would amend the Animal Welfare Act. The Department of Health, Education, and Welfare shares the Committee's concern for the proper care and humane treatment of animals. Animals are an *essential* resource for our efforts to prevent and control disease and promote health for our Nation's people. Our concern with the proper care of animals is based on scientific as well as humane considerations. In order to conduct valid scientific tests and research, it is necessary that animals be healthy and in good condition.

Because healthy, well-cared-for animals are so important to medical research programs, our Department has issued a policy statement regarding the care and treatment of animals used in all of our sponsored research programs and activities. This policy requires that institutions that receive funds from the Department submit in writing an assurance that they have established a mechanism for evaluating their animal care programs consistent with the standards established by the Animal Welfare Act (P.L. 89-544 as amended by P.L. 91-579) and the "Guide for the Care and Use of Laboratory Animals" [DHEW Publication No. (NIH) 73-23] written by the National Academy of Sciences—National Research Council. The policy also directs review groups to note any improper or inappropriate use of animals and requires that such issues be resolved before a grant or contract can be awarded.

With this background on our position regarding the care and use of animals, let me address myself directly to the proposed bill.

H.R. 16738 would amend the Laboratory Animal Welfare Act (P.L. 89-544 as amended by P.L. 91-579) to expand the jurisdiction of the Secretary of Agriculture to require that humane standards be upheld governing the transportation of animals in commerce by specifically placing intermediate handlers and common carriers under such regulations. It would require certification of the health, soundness, and ability of the animals placed in commerce to withstand the intended transportation, and it would place responsibility for humane treatment during actual transport on the intermediate handlers and common carriers. The bill would also outlaw dog and other animal fighting ventures.

Section 8 of the bill amends Section 10 of the Act to require that research facilities among others make and retain records on all animals as prescribed by the Secretary of Agriculture. This could result in a considerable paperwork burden for research facilities if they are required to keep records on the many small animals such as hamsters, mice, and rats needed for research. The Animal Welfare Act of 1970 required research facilities to keep such records only with respect to live dogs and cats. It is our understanding that this has been satisfactory to all concerned. We suggest that the recordkeeping by research facilities be limited to records on dogs and cats.

Air shipment is a major means for distribution of laboratory animals from producer to investigator and from one laboratory to another. It is important that a means to transport research animals quickly and under good conditions be available. Most of the laboratory animals used are bred by commercial producers under carefully controlled conditions and then are shipped to laboratories which are often in other regions of the country. A significant number of other animals are shipped from one scientific installation to another. We are concerned that unreasonable regulations or tariff restrictions might make it unrealistic for airlines to handle laboratory animals, since this could severely hamper medical research.

The Department's other concerns are in Section 10 of the bill which amends Section 13 of the Act. One concern is proposed Section 13(d) which would pro-

hibit "collect on delivery" shipment of animals. Collect on delivery shipments are very often a necessary expedient and a convenience, especially when animals are shipped from an investigator in one laboratory to another investigator in a different laboratory. Although we can understand the problems involved when c.o.d. shipments are refused, in the research setting refusal almost never occurs. Furthermore, Federal procurement regulations do not permit payment in advance of receipt. For this reason, we suggest that c.o.d. shipments be allowed when the shipper agrees to pay charges if refused by the consignee.

Our final concern with the bill relates to Section 10, amending Section 13 of the Act. Proposed paragraph 13(c) prohibits shipment of dogs and cats under eight weeks of age and authorizes the Secretary of Agriculture to prescribe age-limit regulations for additional species of animals to be shipped. Day-old mice—and occasionally young animals of other species—are used in research, principally to investigate viral diseases. Such day-old mice are shipped along with their mothers from producers to using laboratories. The standard practice is to provide some additional environmental protection through insulation of the shipping container. The young mice withstand this shipment procedure without adverse effects. It is important that such animals continue to be available for research.

The Secretary of Agriculture has cooperated with us on numerous occasions as we have worked together to administer the Animal Welfare Act without impeding scientific progress in the area of health research. For this reason this Department defers to the Department of Agriculture on H.R. 16738.

In conclusion, we would like to reiterate the importance of animals in medical research and our concern for their care and treatment for both scientific and humane reasons. In this regard, we would like to note that our past experience with regulations issued under the Animal Welfare Acts of 1966 and 1970 has been productive and positive.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

FRANK CARLUCCI,
Acting Secretary.

AIR TRANSPORT ASSOCIATION OF AMERICA,
Washington, D.C., October 16, 1974.

Congressman THOMAS S. FOLEY,
Chairman, Subcommittee on Livestock and Grains, House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN FOLEY: Since receiving your letter of September 25, 1974, I have been researching the various forms of data we have available, on live animals, within the Association and have concluded that it will be necessary for us to circulate your request to our member carriers, in order to ascertain the desired information, as it is not all available in our offices. Consequently, we will distribute your questions and compile an industry response for your information.

However, it appears that some of the questions may have to be responded to on an estimated basis, rather than actual, as the air carriers, because of Civil Aeronautics Board rulings, are not aware of the actual number of animals contained in all shipments. The Board, in its decision on the Live Animal Investigation, Docket 21474, dated June 26, 1973, concluded that the air carrier's tariff rule requiring the number of animals to be designated by the shipper on the airbill, was unreasonable and unlawful and should be cancelled.

In answer to your request on A.T.A.'s position on the F.A.A. regulations on the segregation and securing of live animal cargo in aircraft, we are attaching a copy of the A.T.A.'s response on behalf of the carriers to the F.A.A. proposal.

In reference to the other questions raised, it is anticipated it will take approximately 30 days to compile the information you desire, so you may expect our response at that time.

Sincerely,

GEORGE A. BUCHANAN.

[Attachment to the above letter are held in the subcommittee file.]

AMERICAN ASSOCIATION OF ZOO VETERINARIANS,
ROEDING PARK ZOO,

Fresno, Calif., October 10, 1974.

Congressman THOMAS S. FOLEY,
1201 Longworth Building,
Washington, D.C.

DEAR CONGRESSMAN FOLEY: On behalf of the American Association of Zoo Veterinarians I have reviewed your proposed legislation H.R. 15843.

The AAZV is vitally concerned with the health and welfare of all animals, especially wildlife destined for Zoological Parks. Consequently we agree with the intent of your bill to provide safe methods of transportation and with most of the content of your proposed amendment.

There are however some sections of the proposed amendment which we feel should be revised, and we ask your reconsideration of the following sections:

Section 10. Authorizing the Secretary of Agriculture to prescribe such records with respect to the purchase sale transportation, *identification*, receiving, handling, delivering previous ownership etc. We feel the Animal Welfare Act already requires adequate record keeping on the existing for 18-20, thus the additional records would be cumbersome and excessively expensive. Animal identification, as it relates to wild species, is extremely difficult to accomplish, hazardous to health and, in some cases, impossible.

We recommend this practice be limited, as it now applies to Dogs and Cats only.

Section 13(b). The requirement that a Veterinarian indicate that animals are "in such a condition that they maybe reasonably expected to withstand the rigors of intended transportation without adverse effect", would place the Veterinarian in an impossible situation, considering the limited opportunity to examine wild animals in shipping containers and the great variability in air shipment procedures.

We join with the American Veterinary Medical Association, and the National Society for Medical Research in opposing this Section as it now stands.

We recommend that animals destined for Zoos be exempted from this requirement or the wording of Section 13(b), on page 5, line 8 through 10 be changed to read, "when so delivered, are free from overt signs of infectious disease or other significant disorders.

Zoo Veterinarians are charged with the responsibility of safeguarding the lives of the wildlife in their care and are grateful for your interest in legislation intended to protect the lives of such animals in air transit. Our recommendations are submitted with that goal in mind.

Sincerely,

PAUL S. CHAFFEE, D.V.M.,
Legislative Committee Chairman.

ELI LILLY AND COMPANY,
Indianapolis, Ind., October 8, 1974.

Hon. THOMAS S. FOLEY,
Chairman, Subcommittee on Livestock and Grains, House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Attached are our comments concerning H.R. 15843 which we had the opportunity to discuss with a member of your staff and it was their suggestion that we forward a copy to your attention for possible inclusion in the hearing record.

We agree with the intent of H.R. 15843 and support any legislation that will assure proper treatment of animals that are being shipped. Animals for research purposes must have proper care during shipping to assure the reception of high quality healthy specimens by our laboratories.

We believe as was pointed out that the primary intent of the bill should not be directed at animals for use in research laboratories. We are, however, concerned with some of the provisions as indicated in our comments which would impose unnecessary burdens and costs to research institutions.

We greatly appreciated the opportunity to discuss our comments with Mrs. Foley and the time she graciously gave to us. If we can provide any further information, please let us know.

Sincerely,

D. L. WOTHKE,
Manager, Government Affairs.

Comments Re: Animal Welfare Act Amendments of 1974 (H.R. 15843 as introduced July 10, 1974)

- I. Section 8 of the Bill requires research facilities to maintain such records as may be prescribed with respect to the purchase, sale, transportation, identification, receiving, handling, delivering, and previous ownership of animals.
 - (1) The necessity of requiring research facilities to keep such records for all animals is questionable. In the past, records have been required only for live dogs and cats to allow owners of lost or stolen cats or dogs to trace them.
 - (2) Research facilities buy animals from foreign countries and use large numbers of small animals (*i.e.*, mice) in various tests. Retention of previous ownership and records of handling for *all animals* places an expensive and unnecessary burden on the research facilities.
 - (3) Section 8 of the Bill should be amended by adding a new sentence to the proposed Section 10 of the Act to read as follows:
 "Research facilities shall make and retain such records only with respect to the purchase, sale, transportation, identification, and previous ownership of live dogs and cats."
- II. Section 10 of the Bill requires that before animals are transported in commerce, a veterinarian examine and certify the animals to be healthy, sound and able to withstand transportation.
 - (1) There are insufficient veterinarians to comply with this section. Undue delay in the transportation of animals with consequent economic loss would therefore result.
 - (2) In most instances, a veterinarian's visual observation of animals would be a fruitless exercise since even a veterinarian cannot discern by looking at an animal whether it is ill, unless the animal has obvious symptoms, which other personnel could equally ascertain. It would be necessary for a veterinarian to thoroughly examine individual animals to ascertain the state of their health, a time-consuming procedure of somewhat limited value, particularly in the case of laboratory animals as efforts are undertaken to keep them in good health to avoid the loss of research data.
 - (3) Section 10 of the Bill should be amended by deleting the proposed new paragraphs to be identified as Section 13(b) in the Act.
- III. Section 10 of the Bill would prohibit the transporting of any cat, dog or other designated animal under eight weeks of age, or such other designated age, in commerce by a common carrier.
 1. Many research programs require animals devoid of certain natural antibodies. Since many natural antibodies are developed as a function of time and exposure, the younger animals are required. Research programs with reference to newborns also require animals under eight weeks of age. If research facilities will be unable to transport, by common carrier, these young animals, then these and similar programs will be severely hindered and unnecessary costs will be incurred.
 2. Section 10 of the Bill should be amended by deleting the proposed new paragraph to be identified as Section 13(c) in the Act or in the alternative add a new sentence to the proposed new paragraph to read as follows:
 "PROVIDED, however, that this subsection shall not apply to the transportation in commerce of animals whose ultimate destination will be a research facility."

ELI LILLY AND COMPANY

THE HUMANE SOCIETY OF THE UNITED STATES,
 Washington, D.C., October 9, 1974.

HON. THOMAS S. FOLEY,
 Chairman, Subcommittee on Livestock and Grains, Committee on Agriculture,
 1201 Longworth Building,
 Washington, D.C.

DEAR MR. FOLEY: I have received your letter of September 25, 1974, and am setting forth below our responses to the questions propounded therein.

What statistical studies in addition to that of Dr. Michael Fox exist on the effects of transportation by air and by other means on puppies younger than

eight weeks old and what have been the findings and conclusions of these studies?

We know of no studies on the effects of transportation on puppies, other than the study conducted by Dr. Fox. As you may be aware, there are proceedings pending before the Civil Aeronautics Board which concern carrier rules and practices relating to live animal shipments, and no party has produced any such data. In fact, the consensus there is that no studies of animal tolerance for stresses encountered in transit exist. The Douglas Aircraft study (DAC Report No. 67949, April 1969) dealt primarily with carbon dioxide concentrations as the limiting factor in animal shipment by air, but did not deal specifically with puppies, and did not evaluate the effects of noise, high humidity and temperature, and other factors which may affect puppy mortality. The Committee should bear in mind, however, that common sense would dictate that a puppy not be shipped prior to weaning or without its immunizing shots. We agree with Dr. Fox that a humane and safe age for transportation would be eight weeks.

Are there any figures in these studies, based on random samples, that would establish the percentage of puppies younger than eight weeks old that suffer definite and serious disabilities as a result of transportation by air or by other modes?

The sole source of statistics on animal mortality in air transit, insofar as we are aware, is the claims data kept by the carriers. Since the carriers record losses of all types of animals in one category, it is impossible to obtain an accurate figure on the extent of damage to puppies under eight weeks old.

Is there an effort on the part of Humane Society inspectors to monitor conformance to Animal Welfare Act regulations? What does this effort involve in terms of numbers of inspectors and on-site and airport inspections? Have Humane Society inspectors discovered many of what they consider to be violations of Animal Welfare Act regulations? Where in the opinion of these inspectors do most of the violations of Animal Welfare Act regulations occur (e.g. unlicensed breeders, inadequate shipping containers, etc.)? When Humane Society inspectors discover widespread and flagrant violations, are these reported to the Department of Agriculture inspectors charged with the enforcement of the Animal Welfare Act?

Many local humane societies, as well as The Humane Society of the United States (HSUS), have made efforts to monitor conformance to Animal Welfare Act regulations. This effort is necessarily limited by lack of manpower and, in most cases, of course, financial resources. Most local humane societies are involved in operating animal shelters or animal population control programs which also limit their investigative capacities.

The Humane Society of the United States, through its Regional Offices, does inspect pet shops, zoos, and animal shipments on a spotcheck basis. Our monitoring efforts consist of visual inspections by HSUS agents and we also receive reports from our members or local humane societies throughout the country. Most of our own inspections occur at Washington, D.C.'s National Airport, since this airport is the closest to our national headquarters, but in addition, we have made inspections at St. Louis, Missouri; Miami, Florida; Philadelphia, Pennsylvania; Kansas City, Kansas; New York, New York; and New Haven and Hartford, Connecticut. I have enclosed a copy of a report of an investigation by Frank McMahon, Director of Investigations, HSUS, which will indicate the conditions which have prevailed in the shipment of live animals through National Airport. We uncover violations of varying severity on almost every inspection.

It is our opinion that most violations occur at licensed dealer's premises, and mainly involve improper identification and health certificates, overcrowding of crates, shipment of sick or parasite-infested animals, and certainly the use of inferior crates with splintered slats, protruding staples, and inadequate access for inspection of the animal or for feeding or watering if necessary.

The Humane Society of the United States reports violations of the Animal Welfare Act to the Animal and Plant Health Inspection Service of the United States Department of Agriculture. We have no way, however, of determining what action USDA has taken, or whether in fact they then proceed to investigate the report at all. USDA has always cooperated with us, but it is their policy not to reveal the results of their investigations, and as a result, the USDA and the humane societies often find themselves duplicating each other's efforts. While our relationship with USDA has been fruitful in securing enforcement of the Animal Welfare Act, closer coordination of our respective investigations

would result in more efficient enforcement, although we would prefer that USDA undertake the entire burden of investigating and correcting violations.

I hope that these answers will assist you in your efforts to improve the effectiveness of the Animal Welfare Act.

Very truly yours,

JOHN A. HOYT,
President, The Humane Society.

NATIONAL WOOL GROWERS ASSOCIATION,
Washington, D.C., October 11, 1974.

Re H.R. 15843, "Animal Welfare Act Amendments of 1974"

HON. THOMAS S. FOLEY,
Chairman, Livestock and Grains Subcommittee, House Agricultural Committee,
Washington, D.C.

DEAR MR. FOLEY: We would appreciate having this letter made a part of the hearing record on H.R. 15843. This letter represents the views of the National Wool Growers Association. Our Association consists of 22 state and area sheep producer organizations operating in Arizona, California, Colorado, Idaho, Indiana, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, New York, Ohio, Oklahoma, Oregon, Texas, Utah, Virginia, Washington, South Dakota, Wisconsin and Wyoming. Approximately 90% of the nation's lambs and wool are produced in this 24-state area.

In H.R. 15843, Section 2(g) of the present Animal Welfare Act of 1970 would become Section 2(f) with no change in wording. This Section provides that the term "animal" excludes ". . . farm animals, such as, but not limited to livestock or poultry, used or intended for use as food or fiber, or livestock or poultry used or intended for use in improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber."

However, in Section 15(a) as amended by H.R. 15843, provision is made that the Secretary shall consult and cooperate with other Federal departments, agencies, or instrumentalities concerned with the welfare of animals used for research, experimentation or exhibition, *or administration of statutes regulating the transportation in commerce or handling in connection therewith of any animals* when establishing standards pursuant to Section 13 of this Act and in carrying out the purposes of this Act."

The underlined part above would be added by enactment of H.R. 15843. There is some doubt in our minds as to whether "any animals" in the underlined section above means *all* animals or whether the definition of "animal" and exclusions from that definition in Section 2(f) would still apply. If Section 15(a) as amended by H.R. 15843 is intended to cover *all* animals, then we would have to object to this provision. We can see the need for regulations governing humane handling of livestock and other animals used for research, testing, experimentation, or exhibition purposes, but we feel Section 15, as amended in H.R. 15843, would be so broad as to give some future Secretary of Agriculture unlimited authority that could cause serious problems and red tape with humane handling regulations (such as feed, water and rest provisions) that are already adequate, applying to shipment of livestock for food and fiber.

Therefore, if Section 15 does apply to *all* livestock, we urge that it be amended to apply only to those animals covered in Section 2(f) of the Act.

Thank you very much for your consideration.

Sincerely,

EDWIN E. MARSH,
Executive Secretary.

REA AIR EXPRESS,
New York, N.Y., October 16, 1974.

HON. THOMAS S. FOLEY,
Chairman, Subcommittee on Livestock and Grains, House of Representatives,
Washington, D.C.

DEAR MR. FOLEY: In response to your letter of September 25, 1974, regarding information which you require for the proposed amendments to the Animal Welfare Act.

The following are our responses to the questions set forth in your letter :

(1) "How many claims have been filed with REA in the past several years for loss, death or injury?"

1969	6,060
1970	4,500
1971	1,950
1972	1,960
1973	2,128

(2) "What percentage of total shipments of live animals does this represent?"

	Percent
1969	1.99
1970	1.49
1971	0.65
1972	0.59
1973	0.65

(3) "How does the live animal rate compare with the general claim rate for all cargo handled for REA Express?"

Average amount paid per claim on all air and surface :

	Air and surface	Live creatures air and surface
1969	\$66.93	\$40.55
1970	78.59	47.79
1971	89.13	85.46
1972	89.25	104.75
1973	89.31	86.45

(4) "How much money has been dispersed in the last several years in meeting claims on live animal shipments?"

Total Amount on Claims Involving Live Creatures :

1969	\$178,503.36
1970	151,880.86
1971	127,728.08
1972	146,263.64
1973	141,519.00

(5) "What percentage of total revenue produced by live animal shipments does the amount dispersed on live animal claims represent?"

Revenue figures for 1969 through 1972 are not available. However, the results for the calendar year 1973 are as follows :

Total Air Express revenues was \$5,078,000. The total amount dispersed on live animal claims was \$141,519.00 or 2.79%.

(6) "How does the percentage figure arrived at in the previous question compare with the same percentage figure in other categories of freight?"

1973, 2.33 percent.

(7) "What percentage of the total revenue produced by REA Air Express is due to live animal shipments?"

4.7 percent.

(8) "What are the current regulations on the handling of live animals (containers, COD, food and water, etc.)?"

Enclosed please find (Exhibit #1) copies of CAB No. 1, Tariff Rules 10 and 19.

(9) "Are these regulations self-imposed and self-enforced or do they form part of the CAB Tariff?"

(a) These rules are self-imposed and self-enforced and form part of the CAB Tariff (CAB No. 1).

(b) Enclosed please find (Exhibit #2) REA Express General Instructions on the Handling of Live Animal shipments. As you can see from the "General Rules and Instructions" which were issued in 1964, proper care of live creatures has been a matter of course at REA Express. Subsequent to the issuance of the General Rules and Instructions in 1964, the proper han-

dling of live creatures and animals has been included in the new handbook for employees (Exhibit #3) Page 34 issued March, 1974.

I am also forwarding copies of various circulars (Exhibit #4) that were issued to all employees who handle live animals and creatures. These circulars were issued in 1971, 1972 and 1973.

In addition, the operations procedure (copy enclosed Exhibit 5) compiling all the existing data on the proper handling of live animals and creatures has just been completed and will be issued to the field within the next several weeks.

I believe it is apparent that our concern in this area has been an on-going thing and we will continue to issue this type of instructions as necessary.

I am also enclosing (Exhibit #6) a sample of the different type of posters that are displayed at all facilities handling live animals and creatures.

"What percentage of live animal shipments you estimate are made on a COD basis (COD for either the shipping charge or the animal itself)?"

COD (Transportation charges) 16.78%.

COD (Live Animals) 60.83

(11) "What is REA's position on Section 10, Part D of H.R. 15843 which would ban COD shipments?"

The handling of COD shipments has always been one of the unique services provided by REA. The total amount of CODs handled in relationship to the total volume is relatively small, our problems in the past have been minimal and expect there should be no change in the future. Our position on Section 10 at this point is neutral.

(12) "Does REA Air Express provide its employees who regularly handle animals special instructions on the handling of live animals? What does this instruction involve, how many employees have received such instructions? What special instructions or sections are included in the operations manual on the handling of live animals?"

Please see No. 9.

(13) "Other than at Washington National Airport and JFK International in New York does REA at any of its airport facilities work with any humane or other group to provide special care for animals? Where this co-operative work does take place what does it involve in terms of special care (e.g., watering, feeding, etc.)?"

REA cooperates with all humane groups. Watering, feeding is provided by our employees. Veterinary care is utilized whenever necessary.

I hope this information will give you the necessary in-put regarding your amendments to the Animal Welfare Act. If you have any additional comments or questions please do not hesitate to contact me.

Sincerely,

JIM TETER

SMATHERS, MERRIGAN & HERLONG,
Washington, D.C., November 25 1974.

HON. THOMAS S. FOLEY,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN FOLEY: The American Horse Council has requested that we, as General Counsel, respond to your letter of September 25, 1974 wherein you requested information concerning the transportation of horses. As you will recall when we appeared before your Subcommittee in support of the Animal Health Research Act, we noted that statistics as to the number of horses, their breed, their use, and their location are presently unavailable. Because these facts are closely tied to the information which you have requested, we regret that we are unable to fully respond to your inquiry.

However, we have received information from the American Horse Carriers Association, Inc. which has made a significant effort to unearth facts which might be helpful to you. Of the seventeen members of that Association, which is an organization of motor common carriers authorized by the Interstate Commerce Commission to transport animals other than ordinary, nine were able to provide some information. This information, which was transmitted to us by Robert H. Kinker, Esq., General Counsel to the National Horse Carriers Association, is set forth below.

In the calendar year 1973 the nine reporting motor carriers, which employ 187 persons, operated a total of 6,688,799 miles in transportation of animals

other than ordinary. This represents a total of 40,353,061 horse miles, none of which involved the shipment of horses for slaughter. Gross revenues from the transportation of horses other than ordinary for the year was \$4,183,402. While the seventeen members of the National Horse Carriers Association are licensed by the Interstate Commerce Commission to transport horses other than ordinary, there are many other motor common carriers which are similarly licensed. The total number of which can be obtained, we believe, from the Interstate Commerce Commission.

The license or certification obtained from the Interstate Commerce Commission for the transportation of horses, other than ordinary, requires that licensed carriers perform service designed to meet the needs and convenience of the shipping public. This of course contemplates that the involved transportation be performed in such a manner as to adequately protect and care for the horses being transported, most of which are of high value. The vehicles used to perform this transportation are specially designed and constructed so as to comfortably transport not only the horses, but also the mascots and attendants which frequently accompany the horses during transportation. Drivers are specially trained in such transportation and such training includes the care, exercise, rest, feeding, and watering of these animals during such transportation.

The rigid requirements of the Interstate Commerce Commission with respect to equipment operated in interstate commerce by authorized carriers are strictly enforced by inspections of such equipment at the carriers' office locations and also spot inspections while such equipment is actually performing transportation service.

The license or certificate issued by the Interstate Commerce Commission to a motor common carrier is subject to revocation if the carrier fails to maintain acceptable transportation standards as required by the Interstate Commerce Act. This of course would include improper or inhumane handling of the horses being transported.

The nine carriers reporting here advised that they know of statutes dealing specifically with inhumane handling of horses while in transit in the following states: Florida, Kentucky, Georgia, Indiana, and Illinois. There may, of course, be other states which also have statutes dealing specifically with this subject matter. The reporting carriers state that all states have laws dealing generally with the inhumane treatment of animals which would, of course, cover horses.

The reporting carriers were not knowledgeable as to the specific penalties provided by state statutes with respect to inhumane treatment of horses during transportation. This is understandable in view of the fact that the specialized transportation performed by these carriers is such as to preclude the possibility of inhumane, or improper, treatment of the animals being transported. Obviously, any motor common carrier which does not use proper care in the treatment of horses while in transit will not be tendered such traffic in the future and will not remain in business very long.

The nine reporting carriers indicate that to their knowledge the various pertinent state statutes are sufficiently stringent and adequately enforced to guarantee proper care of horses while in transit.

Several of the reporting carriers point out that the involved state statutes require that horses, other than ordinary, be examined by an accredited veterinarian not more than ten days prior to being shipped so as to reduce the possibility of transportation of horses which are not healthy and which are not in proper physical condition for transportation. Furthermore, various states require inspection of animals being transported at points of entry into these states.

Eight of the nine reporting carriers indicate that they had no claims whatsoever for horses lost or injured during the 1973 calendar year. One of the reporting carriers indicated a claim rate of 2½% for that calendar year.

We hope that this information can be useful to you during your consideration of the Amendments to the Animal Welfare Act. We also hope that you understand that it is our desire to provide all of the information which you have requested. Unfortunately, however, our lack of facts and statistics is part of a much broader and, of course, more serious problem of the entire horse industry, which desperately needs this type of knowledge about each of its many components.

If we can be of further assistance in this matter, please notify us.

With warmest regards,

GEORGE A. SMATHERS.

AIR TRANSPORT ASSOCIATION OF AMERICA,
Washington, D.C., December 12, 1974.

HON. THOMAS S. FOLEY,
*Chairman, Subcommittee on Livestock and Grains, Committee on Agriculture,
U.S. House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: In response to your December 3 letter to Mr. George Buchanan, Vice President—Traffic of the Air Transport Association, I am enclosing information relating to the transportation of live animals by air.

Attached are pages outlining the acceptance of live animals as excess baggage as contained in Local and Joint Passenger Rules Tariff No. PR-6, CAB No. 142, Pages 152-156. Also attached is a summary by quarters of Air Freight Claims data relating to claims paid for live animal shipments for the years 1972, 1973 and the first part of 1974.

There are not at present specific FAA stowage requirements for live animals in passenger compartments. However, there is a requirement that all carry-on baggage be placed under passenger seats, or adjacent to the passengers in the foremost seats. The appropriate pages from FAA regulations are attached.

We are continuing our efforts to obtain further information from the carriers which might be helpful to the Committee in formulating the Animal Welfare Act Amendments of 1974. We recognize that adjournment of the 93d Congress is imminent, but we will continue our actions in this regard.

Sincerely yours,

LEO SEYBOLD,
Vice President, Federal Affairs.

Airline Tariff Publishers, Inc., Agent

LOCAL AND JOINT PASSENGER RULES TARIFF NO. PR-6

24th Revised Page 152
Cancels 23rd Revised Page 152

RULE

SECTION VI—BAGGAGE

345

ACCEPTANCE OF BAGGAGE - LIVE ANIMALS (Other than Dogs Trained to Lead the Blind)

(A) General Conditions of Transportation

- (1) OH will not accept live animals for transportation.
 - (2) All other carriers will accept certain live animals for transportation, provided that:
 - (a) advance arrangements are made (See Paragraph (E) below for AA exception),
 - (b) they are harmless, inoffensive, odorless, and will require no attention in transit.
 - (c) they are confined in a cage or container acceptable to the carrier.
 - (d) they are transported in the cargo compartment of the aircraft.
- Exception for CO, HA, NY, PA and TW - This paragraph is not applicable.
Exception for WNE, AA, BN, EA, FL, NW, TW and UA - See Rule 345(B) for carriage of small pets in the passenger compartment.
Exception for WA - This paragraph is not applicable to household birds.
- (e) (Not applicable to AC, WNE, RW, AS, AL, TS, AA, BN, CP, CO, DL, EA, FL, HA, NA, NY, NC, NW, OZ, PW, PA, PI, TT, TZ, UA or WA) The weight of the animal and its container be subject to the charges for excess weight prescribed in Rule 360 (Excess Baggage Charges), regardless of the weight of other baggage presented by the passenger.
 - (f) (Not applicable to TS, HA, or PA) A storage charge of \$2.00 will be made for each day or fraction thereof, during which the animal remains uncalled for, such charge to commence to accrue 6 hours after arrival at the destination.
 - (g) They are otherwise acceptable under the additional conditions listed by any carrier in Paragraph (B) below.
 - (h) (Applicable to AC, WNE, AS, AA, BN, CP, CO, FL, NY, NC, NW, OZ, PW, TT, TZ, TW and WA only.)
 - (1) (Not applicable via TW except when the animal and its container are carried in the cargo compartment of the aircraft) For transportation solely within the United States and/or Canada, the animal and its container will not be included in the free baggage allowance pursuant to Rule 355 and will be subject to 200% of the otherwise applicable excess baggage charge per piece of baggage named in Rule 360(B)(4)(b).
 - (2) (Not applicable to NW and not applicable to TW when the animal and its container are carried in the first class cabin.) For extraterritorial transportation other than to/from Hawaii, the weight of the animal and its container is subject to the charges for excess weight prescribed in Rule 360 (Excess Baggage Charges) regardless of the weight of other baggage presented by the passenger.
 - (3) (Applicable to NW only) For transportation within the United States and Canada when such transportation is part of a trip between a point in the United States or Canada, on the one hand and a point outside of the United States or Canada, on the other hand, the weight of the animal and its container is subject to the charges for excess weight prescribed in Rule 360 (Excess Baggage Charges) regardless of the weight of other baggage presented by the passenger.
 - (4) (Applicable to TW only when the animal and its container are carried in the first class cabin.)
 - (a) For transportation solely within the United States, the animal and its container when carried in the first class cabin will not be included in the free baggage allowance pursuant to Rule 355 and will be subject to the charge shown in subparagraph (b) below:
 - (b) Where the applicable full jet first class adult one way fare is: (In U.S. Currency)
- | Is: (In U.S. Currency) | The Charge for the pet and its container will be: (In U.S. Dollars) |
|------------------------|---|
| \$25.00 or under | \$15.00 |
| 25.01 through 50.00 | 20.00 |
| 50.01 through 120.00 | 25.00 |
| 120.01 through 200.00 | 30.00 |
| over \$200.00 | 35.00 |
- (i) (Applicable to RW and UA only)
 - (1) For transportation solely within the United States and/or Canada, the animal and its container will not be included in the free baggage allowance pursuant to Rule 355, and will be subject to 200% of the otherwise applicable excess baggage charge per piece of baggage named in Rule 360 (B)(4)(b).
 - (2) For extraterritorial transportation, other than solely between the Continental United States/Canada and Hawaii, the weight of the animal and its container is subject to the charges for excess weight prescribed in Rule 360(B)(4)(a) (Excess Baggage Charges) regardless of the weight of other baggage presented by the passenger.
 - (j) (Applicable to AL, DL, EA, NA, PI and SO only)
 - (1) For transportation solely within the United States and/or Canada, the animal and its container will not be included in the free baggage allowance pursuant to Rule 355 and will be subject to a charge of 200% of the otherwise applicable excess baggage charge per piece of baggage named in Rule 360(B)(4)(b).
 - (2) For extraterritorial transportation other than to/from Hawaii, the weight of the animal and its container is subject to the charges for excess weight prescribed in Rule 360(B)(4)(a) (Excess Baggage Charges) regardless of the weight of other baggage presented by the passenger.
 - (k) (Applicable via PA only)
 - (1) (Applicable when transportation is wholly within the U.S./Canada) The animal and its container will not be included in the free baggage allowance pursuant to Rule 355 and will be subject to 200% of the otherwise applicable excess baggage charge per piece of baggage named in Rule 360(B)(4)(b).
 - (2) (Applicable to portions of international transportation) The weight of the animal and its container is subject to the charges for excess weight prescribed in Rule 355 (Excess Baggage Charges) regardless of the weight of other baggage presented by the passenger.

(Continued on next page)

For explanation of abbreviations, reference marks and symbols used but unexplained hereon, see Page 8.

ISSUED: DECEMBER 2, 1974

EFFECTIVE: JANUARY 1, 1975 (EXCEPT AS NOTED)

(Printed in U.S.A.) - Effective December 3, 1974 and issued on one (1) day's notice under Special Tariff Permission No. 35194 of the Civil Aeronautics Board.

CORRECTION NO. 8414

Airline Tariff Publishers, Inc., Agent

LOCAL AND JOINT PASSENGER RULES TARIFF NO. PR-6

21st Revised Page 153
Cancels 20th Revised Page 153

RULE

SECTION VI—BAGGAGE

- 345 ACCEPTANCE OF BAGGAGE - LIVE ANIMALS** (Other than Dogs Trained to Lead the Blind) (Continued)
- (A) **General Conditions of Transportation** (Continued)
- (2) (1) (Applicable to TS and HA only) The animal and its container will not be included in the free baggage allowance pursuant to Rule 355 and will be subject to an excess baggage charge of \$4.00.
- EXCEPTION:** (Applicable to HA only) When the animal and its container is acceptable for transportation in the passenger compartment of the aircraft pursuant to Rule 345(B), such animal and container will be included with other baggage presented by the passenger and the normal free baggage allowance and excess baggage charges will apply.
- (B) **Additional Conditions of Transportation** AC, WNE, RW, AS, AL, TS, AA, EN, CP, CO, DL, EA, FL, HA, NA, NY, NC, NW, PW, PA, PI, RV, SO, TT, TW, UA, WA or WC will accept, or will not accept, live animals, subject to conditions of transportation in addition to the general conditions listed in Paragraph (A) above. These additional conditions of transportation are listed below.
- AC** - will accept domestic cats, dogs or household birds if confined in a suitable container supplied by the passenger. Containers may be purchased from the carrier for the carriage of dogs.
- NE** - will accept one or more pets (cats, dogs or household birds) when accompanied by a passenger, for carriage:
- (1) In the cargo compartment of the aircraft; pet containers must be made out of metal, wood or polyethylene (when environmental conditions do not impose hazard to safety and comfort of the animal).
 - (2) In the cabin of any flight, subject to the following conditions:
 - a. the pet(s) must be contained in a single container and only one container per passenger will be carried;
 - b. such container cannot exceed 21 inches in length, 16 inches in width, by 8 inches in height;
 - c. the container must be stored at the accompanying passenger's seat;
 - d. not more than one container will be carried at the same time in the passenger compartment.
- EXCEPTION:** In Beechcraft 99 and DeHavilland DHC-6 aircraft between the points of Hyannis, Nantucket, Martha's Vineyard and New Bedford one pet (cat or dog) will be carried without a container in the passenger compartment. A restraining leash must be provided.
- RW** - will accept domestic cats, dogs or household birds if confined in a suitable container either purchased from RW (see paragraph C below) or supplied by the passenger provided that the container has been inspected and approved by RW prior to flight departure time.
- AS** - will accept for carriage pets, namely dogs, cats and birds, when properly crated in leak-proof containers supplied by the passenger:
- (1) In the cargo compartment of the aircraft;
 - (2) In the cabin of any flight, subject to the following additional conditions:
 - (a) The pet(s) must be confined in a single container and only one container per passenger will be carried;
 - (b) such container cannot exceed 21 inches in length, 16 inches in width, by 8 inches in height;
 - (c) the container must be stored under the accompanying passenger's seat;
 - (d) not more than one such container will be carried at the same time in any single compartment of the aircraft.
- AL** - will only accept domestic cats, dogs or household birds when accompanied by a passenger and confined in a container supplied by the passenger which is inspected and approved by AL at the time of acceptance.
- TS** - will accept domestic dogs, cats and birds for transportation only if confined in a leak-proof container supplied by the passenger or carrier.
- AA** - will accept one or more pets (domestic cats, dogs and household birds), when accompanied by a passenger, for carriage:
- (1) In the cargo compartment of flights only if the gross weight of the pet and its container is 115 pounds or less. Such pets will be carried without advance arrangements.
 - (2) In the cabin of any flight, subject to advance arrangements being made and the following additional conditions:
 - (a) one or more pets (domestic cats, dogs or household birds) must be confined in a single container, and only one container per compartment will be carried at the same time in any single aircraft;
 - (b) Such container must be stored under the seat directly in front of the passenger accompanying the pet(s) and conform to all of the following specifications:
 - (i) Container cannot exceed 13 inches in width, by 23 inches in length, by 9 inches in height;
 - (ii) Container must be ventilated on at least two sides;
 - (iii) Container must provide sufficient room to allow the pet(s) to stand in a normal manner.
 - (c) the pet(s) must remain in the container while in the aircraft cabin.

For provisions of Rule 345(B) (Acceptance of Baggage) previously published on 20th Revised Page 153, see 21st Revised Page 154.

For explanation of abbreviations, reference marks and symbols used but unexplained hereon, see Page 8.

ISSUED: DECEMBER 2, 1974

EFFECTIVE: JANUARY 1, 1975

(Printed in U.S.A.)

CORRECTION NO. 8415

Airline Tariff Publishers, Inc., Agent

LOCAL AND JOINT PASSENGER RULES TARIFF NO. PR-6

21st Revised Page 154

Cancels 20th Revised Page 154

RULE

SECTION VI—BAGGAGE

- 345 ACCEPTANCE OF BAGGAGE - LIVE ANIMALS** (Other than Dogs Trained to Lead the Blind) (Continued)
- (B) **Additional Conditions of Transportation** (Continued)
- BN** - will, subject to the completion of advance arrangements, accept only domestic dogs, cats and household birds if confined in a suitable container supplied by the passenger and inspected and approved by BN prior to flight departure time for carriage:
- (1) in the cargo compartment of the aircraft;
 - (2) in the cabin of any flight, subject to the following additional conditions:
 - (a) the pet(s) must be confined in a single container and only one container per passenger will be carried;
 - (b) such container cannot exceed 21 inches in length, 16 inches width, by 8 inches in height;
 - (c) the container must be stored under the accompanying passenger's seat;
 - (d) not more than one such container will be carried at the same time in any single compartment of the aircraft.
- CP** - subject to the completion of advance arrangements, CP will accept only domestic cats, dogs and household birds if confined in a suitable container either purchased from CP (see paragraph (C) below) or supplied by the passenger provided that the container has been inspected and approved by CP prior to flight departure time.
- CQ** - will accept domestic cats, dogs and household birds for transportation only if confined in a suitable container supplied by the passenger. Containers may be purchased from the carrier for the carriage of dogs and/or cats.
- DL** - will accept pets (only domestic cats, dogs or household birds), when accompanied by a passenger, for carriage in the cargo compartment of the aircraft if the pet(s) are confined in a container purchased from DL or in a suitable container supplied by the passenger and inspected and approved by DL prior to flight departure time.
- EA** - will accept one or more pets (domestic cats, dogs and household birds) when accompanied by a passenger for carriage.
- (1) in the cargo compartment of the aircraft; container must be made out of metal, wood or polyethylene supplied by the passenger which is inspected and approved by EA at the time of acceptance.
 - (2) in the cabin of any flight, subject to the following additional conditions:
 - (a) the pet(s) must be confined in a single container and only one container per passenger will be carried.
 - (b) such container cannot exceed 19 inches in length, 17 inches in width, and 7 1/2 inches in height.
 - (c) the container must be stored at the accompanying passenger's feet;
 - (d) not more than one such container will be carried at the same time in any single compartment of the aircraft.
- FL** - will accept domestic cats, dogs or household birds for transportation only if confined in a suitable container supplied by the passenger. Such pets will be carried in the cargo compartment except that one animal in a single container will be permitted in the passenger compartment at the charge named in Rule 345(A)(2)(h) subject to the following requirements.
- (1) all conditions of Rule 345(A)(2)(a), (b) and (c);
 - (2) container size must allow storage under a passenger seat of all aircraft on which passenger holds reservations.
 - (3) container must be stored under a passenger seat at the accompanying passenger's feet.
- HA** - will accept domestic cats, dogs and birds, confined in a suitable container for:
- (1) transportation in the cargo compartment of the aircraft; or
 - (2) transportation in the passenger compartment of the aircraft provided:
 - (a) the size of the container does not exceed 17 inches in width by 17 inches in length by 6 inches in height;
 - (b) the total of the carry-on baggage, including the animal and its container, is capable of being stowed under the passenger's seat; and
 - (c) not more than one container per passenger and one animal per container is presented.
- NA** - subject to the completion of advance arrangements NA will accept only domestic cats, dogs and household birds if confined in a container purchased from NA or in a suitable container supplied by the passenger and inspected and approved by NA prior to flight departure time.
- NY** - will accept domestic cats, dogs or household birds if confined in a suitable metal or wood pet container not to exceed 20 by 24 by 18 inches in dimension which is supplied by the passenger.
- NC** - will accept cats and dogs for transportation in the cargo compartment of the aircraft provided the cat or dog is confined in a container made of metal, wood or polyethylene supplied by the passenger and inspected and approved by NC at the time of acceptance.

(Continued on next page)

For provisions of Rule 345(B) (Acceptance of Baggage) in effect prior to the effective date hereof, see 20th Revised Page 153.

For explanation of abbreviations, reference marks and symbols used but unexplained hereon, see Page 8.

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CORRECTION NO. 8416

Airline Tariff Publishers, Inc., Agent

LOCAL AND JOINT PASSENGER RULES, TARIFF NO. PR-6

35th Revised Page 155
Cancels 34th Revised Page 155

SECTION VI - BAGGAGE

RULE	
345	ACCEPTANCE OF BAGGAGE - LIVE ANIMALS (Other than Dogs Trained to Lead the Blind) (Continued)
	(B) Additional Conditions of Transportation (Continued)
	NW - will accept one or more pets (Domestic cats, dogs and household birds) when accompanied by a passenger for carriage:
	(1) In the cargo compartment of the aircraft; container must be made out of metal, wood or polyethylene supplied by the passenger which is inspected and approved by NW at the time of acceptance.
	(2) In the cabin of any flight, subject to the following additional conditions:
	(a) the pet(s) must be confined in a single container and only one container per passenger will be carried;
	(b) such container cannot exceed 21 inches in length, 16 inches in width, by 8 inches in height;
	(c) the container must be stored at the accompanying passenger's feet;
	(d) not more than one such container will be carried at the same time in any single compartment of the aircraft.
	PA - will accept for carriage pets, namely dogs, cats and birds, when properly crated in leakproof containers supplied by the passenger and accompanied by valid health and rabies vaccination certificates.
	PI - will accept pets (only domestic cats, dogs or household birds), When accompanied by a passenger for carriage in the cargo compartment of the aircraft if the pet(s) are confined in a container purchased from PI or in a suitable container supplied by the passenger and inspected and approved by PI prior to flight departure time.
	PW - subject to the completion of advance arrangements, PW will accept only domestic cats, dogs and household birds if confined in a suitable container supplied by the passenger. Containers may be purchased from the carrier for the carriage of dogs and/or cats.
	RV - will accept for carriage pets, namely dogs, cats and birds, when properly crated in leakproof containers supplied by the passenger and accompanied by valid health and rabies vaccination certificates.
	SO - will accept domestic animals provided the animal is:
	(1) confined in a container supplied by the passenger which is inspected and approved by SO at the time of acceptance; or,
	(2) confined in a container sold by SO (see Paragraph (C) below). The maximum acceptable container size is 98 inches in linear dimensions (the sum of the greatest outside length, plus width, plus height); and
	(3) Domestic dogs will only be accepted for transportation in the belly cargo compartment.
	TT - will not accept live animals other than domestic dogs, cats or household birds, for transportation. Domestic dogs and cats will be accepted for transportation only if confined in a suitable kennel supplied by the passenger.
	ATW - will accept pets (cats, dogs or household birds) when accompanied by a passenger for carriage as follows:
	▲(1) One or more pets in the cargo compartment of the aircraft, pet container must be made of leakproof metal, wood, fiberglass or polyurethane and subject to inspection and improvement by TW prior to flight departure time. Containers may be purchased from the carrier for carriage of dogs and/or cats.
	NOTE: Carriage may be restricted on certain types of aircraft or over certain segments because of space limitations on the aircraft.
	(2) In the cabin of any flights subject to the following additional conditions:
	(a) Only one pet will be allowed per container, one container per flight and only in the first class compartment of the aircraft.
	NOTE: Pets are not permitted in the cabin of all coach configured DC-9 aircraft.
	(b) The container cannot exceed 21 inches in length, 16 inches in width and during takeoff and landing must collapse to a maximum of 8 inches in height.
	(c) Advance reservations must be made.
	(d) Not permitted for unaccompanied children.
	(e) Not in the first row.
	(f) Not in any carry-on compartment that may be provided for other baggage.
	(3) After Passenger check in the pet must remain in the container at all times while in the boarding area.
	(4) After boarding the aircraft and throughout the flight, the following requirements must be complied with:
	(a) Pet must be in the container, under the seat in front of the passenger for take-off and landing.
	(b) Pet must be in the container for meal and beverage services.
	(c) Pet must remain at the passenger's seat at all other times.
	NOTE: The container is approved for a pet not exceeding 8 inches to the top of his shoulders. Any pet that will not fit in this container when closed must ride in the lower cargo compartment.

(Continued on next page)

For explanation of abbreviations, reference marks and symbols used but unexplained hereon, see Page 8.

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CORRECTION NO.

8417

Airline Tariff Publishers, Inc., Agent

LOCAL AND JOINT PASSENGER RULES TARIFF NO. PR-6

35th Revised Page 156

Cancels 34th Revised Page 156

RULE

SECTION VI—BAGGAGE

345 ACCEPTANCE OF BAGGAGE - LIVE ANIMALS (Other than Dogs Trained to Lead the Blind) (Continued)
(B) (Continued)

WA - will accept one or more pets (cats, dogs or household birds), when accompanied by a passenger, for carriage:

- (1) In the cargo compartment of the aircraft; pet container must be made out of metal, wood or polyethylene.
- (2) In the cabin of any flight, subject to the following additional conditions:
 - (a) the pet(s) must be contained in a single container and only one container per passenger will be carried;
 - (b) such container cannot exceed 21 inches in length, 16 inches in width, by 8 inches in height;
 - (c) the container must be stored at the accompanying passenger's feet;
 - (d) not more than one such container will be carried at the same time in any single compartment of the aircraft.

WA and WC - will accept domestic cats, dogs and household birds only. Domestic cats and dogs will be accepted only if confined in a container supplied by the passenger which is inspected and approved by carrier prior to flight departure time.

(C) Containers Furnished by Carrier

- (1) A carrier furnishing a container for the transportation of live animals, as provided in Paragraph (B) above, will assess charges listed below, which are in addition to other applicable charges for the transportation of the animal:

CARRIER	CHARGE
HA	\$ 1.00
TS	1.00

The above charges apply from the origin airport to the airport of stopover or airport of destination over the carrier, as the case may be. Containers will be furnished for on-line use only and must be surrendered to the carrier at the point of stopover or destination as the case may be.

- (2) A carrier furnishing a container for the transportation of live animals, as provided in Paragraph (B) above, will assess charges listed below for the sale of such containers, which are in addition to the applicable charges for the transportation of the animal:

CARRIER	CHARGE
NE (Container 18 x 19 x 26 inches)	\$ 16.00
NE (Container 24 x 27 x 36 inches)	27.00
RW (container 12 x 15 x 22 inches)	10.00
RW (container 18 x 18 x 26 inches)	15.00
RW (container 22 x 28 x 36 inches)	20.00
AS (container 14 x 16 x 20 inches)	9.50
AS (container 18 x 19 x 25 inches)	12.25
AS (container 22 x 28 x 36 inches)	16.75
AS (container 25 x 30 x 42 inches)	21.50
CP (container 11 1/2 x 14 x 17 inches)	14.00
CP (container 15 x 21 x 24 inches)	18.00
CP (container 21 x 30 x 36 inches)	23.00
SO (container 19 x 12 x 15 inches)	11.00
SO (container 22 x 17 x 17 inches)	13.00
SO (container 32 x 20 x 25 inches)	22.00

(D) Liability

- (1) (Applicable to AS only.) Carrier shall not be liable for the loss, death, or sickness of, or any injury to or delay in the delivery of the pet.
- (2) (Applicable to AC, NE, AL, CP, PV, NA, NY, ND, PW, RV, TZ) The owner assumes all risk for injury, sickness or death of any pet(s) accepted for transportation, and assumes responsibility for compliance with all governmental regulations and restrictions. Carrier is not responsible in the event any pet(s) is refused passage into, or through any country, state or territory.
- (3) (Applicable to FL and NW only) Carrier shall not be liable for the loss, death, or sickness of or any injury to or delay in the delivery of, the pet; and the owner assumes responsibility for compliance with all governmental regulations and restrictions. Carrier is not responsible in the event any pet(s) is refused passage into or through any country, state or territory.
- (4) (Applicable to RW, AS, AA, BN, CO, DL, EA, NC, OZ, PI, TT, TW, UA and WC only) The owner of the pet shall be responsible for compliance with all governmental regulations and restrictions, including the furnishing of valid health and rabies vaccination certificates where required. Carrier is not responsible in the event any pet(s) is refused into, or through any country, state or territory.

For explanation of abbreviations, reference marks and symbols used but unexplained hereon, see Page 8.

ISSUED: DECEMBER 2, 1974

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(Printed in U.S.A.)

CORRECTION NO. 8418

Compiled by ATA from CAB sources.

AIR FREIGHT LIVE ANIMAL CLAIMS DATA
(DOMESTIC AND INTERNATIONAL)

PERIOD	NUMBER OF LIVE ANIMAL CLAIMS PAID	% OF TOTAL NUMBER OF LIVE ANIMAL CLAIMS PAID/TO TOTAL CLAIMS	DOLLARS PAID LIVE ANIMAL CLAIMS	% OF TOTAL DOLLARS PAID OF LIVE ANIMAL CLAIMS/ TO TOTAL DOLLARS PAID
<u>1972</u>				
<u>2nd Quarter</u>				
Baby Poultry	22		\$ 5,578.00	
Fish, Live	252		29,806.00	
Lobsters	100		10,041.00	
Other Live Animals	<u>102</u>		<u>12,704.00</u>	
TOTAL	476	(3.8%)/12,442	\$ 58,129.00	(2.6%)/\$ 2,202,949.00
<u>1972</u>				
<u>3rd Quarter</u>				
Baby Poultry	22		\$ 8,965.00	
Fish, Live	231		29,969.00	
Lobsters	146		13,597.00	
Other Live Animals	<u>139</u>		<u>19,457.00</u>	
TOTAL	538	(4.8%)/11,014	\$ 71,988.00	(3.7%)/\$ 1,948,279.00
<u>1972</u>				
<u>4th Quarter</u>				
Baby Poultry	16		\$ 4,611.00	
Fish, Live	270		29,777.00	
Lobsters	174		16,597.00	
Other Live Animals	<u>115</u>		<u>17,277.00</u>	
TOTAL	575	(4.9%)/11,760	\$ 68,262.00	(3.2%)/\$ 2,093,364.00
<u>1972</u>				
<u>Annual</u>				
Baby Poultry	84		\$ 31,791.00	
Fish, Live	1,258		134,714.00	
Lobsters	570		50,710.00	
Other Live Animals	<u>528</u>		<u>74,869.00</u>	
TOTAL	2,440	(4.5%)/54,239	\$292,084.00	(3.4%)/\$ 8,548,778.00

Baby Poultry				
Fish, Live	490		78,937.00	
Lobsters	244		23,182.00	
Other Live Animals	140		27,366.00	
TOTAL	893	(5.9%)/15,179	\$143,755.00	(4.9%)/\$ 2,957,883.00

<u>1973</u>				
<u>2nd Quarter</u>				
Baby Poultry	18		\$ 18,947.00	
Fish, Live	414		62,966.00	
Lobsters	154		18,463.00	
Other Live Animals	135		16,986.00	
TOTAL	722	(5.1%)/14,305	\$117,362.00	(4.4%)/\$ 2,662,622.00

<u>1973</u>				
<u>3rd Quarter</u>				
Baby Poultry	33		\$ 12,462.00	
Fish, Live	324		46,021.00	
Lobsters	191		21,779.00	
Other Live Animals	218		30,569.00	
TOTAL	767	(5.6%)/13,671	\$110,851.00	(4.1%)/\$ 2,726,159.00

<u>1973</u>				
<u>4th Quarter</u>				
Baby Poultry	26		\$ 22,612.00	
Fish, Live	246		31,974.00	
Lobsters	169		22,709.00	
Other Live Animals	140		33,723.00	
TOTAL	581	(4.7%)/12,459	\$111,018.00	(4.3%)/\$ 2,607,356.00

<u>1973</u>				
<u>Annual</u>				
			\$ 61,156.00	
Baby Poultry	96		\$ 61,156.00	
Fish, Live	1,475		219,898.00	
Lobsters	750		88,133.00	
Other Live Animals	634		108,644.00	
TOTAL	2,964	(5.3%)/55,616	\$475,831.00	(4.3%)/\$10,954,020.00

AIR FREIGHT LIVE ANIMAL CLAIMS DATA
(DOMESTIC AND INTERNATIONAL)

PERIOD	NUMBER OF LIVE ANIMAL CLAIMS PAID	% OF TOTAL NUMBER OF LIVE ANIMAL CLAIMS PAID/TO TOTAL CLAIMS	DOLLARS PAID LIVE ANIMAL CLAIMS	% OF TOTAL DOLLARS PAID OF LIVE ANIMAL CLAIMS/ TO TOTAL DOLLARS PAID
<u>1974</u>				
<u>1st Quarter</u>				
Baby Poultry	16		\$ 29,736.00	
Fish, Live	508		79,324.00	
Lobsters	203		27,357.00	
Other Live Animals	<u>159</u>		<u>32,182.00</u>	
TOTAL	886	(6.1%)/14,572	\$168,599.00	(5.8%)/\$ 2,910,922.00
<u>1974</u>				
<u>2nd Quarter</u>				
Baby Poultry	11		\$ 29,144.00	
Fish, Live	407		72,916.00	
Lobsters	129		19,767.00	
Other Live Animals	<u>141</u>		<u>26,078.00</u>	
TOTAL	688	(5.3%)/13,142	\$147,905.00	(4.9%)/\$ 3,043,996.00

121.587(b)

September 14, 1974
121-110

FEDERAL AVIATION REGULATION PART 121

(b) The provisions of paragraph (a) of this section do not apply —

- (1) During takeoff and landing if the crew compartment door is the means of access to a required passenger emergency exit or floor level exit: or (Revised 121-14, December 18, 1965)
- (2) At any time that it is necessary to provide access to the flight crew or passenger compartment, to a crewmember in the performance of his duties or for a person authorized admission to the flight crew compartment under §121.547.

121.589 CARRY-ON BAGGAGE. (Added 121-30, October 24, 1967)

(a) No certificate holder may permit an airplane to take off or land unless each article of baggage carried aboard by passengers is stowed — (Revised 121-84, May 1, 1972)

- (1) In a suitable baggage or cargo stowage compartment; (Revised 121-84, May 1, 1972)
- (2) As provided in paragraph (c) of § 121.285; or (Added 121-84, May 1, 1972)
- (3) Under a passenger seat. (Revised 121-84, May 1, 1972)

(b) Each passenger shall comply with instructions given by crewmembers regarding compliance with paragraph (a) of this section. (Revised 121-84, May 1, 1972)

(c) Each passenger seat under which baggage is permitted to be stowed shall be fitted with a means to prevent articles of baggage stowed under it from sliding forward under crash impacts severe enough to induce the ultimate inertia forces specified in § 25.561(b)(3) of this chapter or in the emergency landing condition regulations under which the aircraft was type certificated. (Added 121-84, May 1, 1972)

121.590 USE OF CERTIFICATED LAND AIRPORTS: DOMESTIC, AND FLAG, AND SUPPLEMENTAL AIR CARRIERS CERTIFICATED BY THE CAB INCLUDING THEIR CHARTER OPERATIONS AND THEIR OPERATIONS WITH SMALL AIRCRAFT.

(a) Unless otherwise authorized by the Administrator, ~~after May 20, 1973,~~ no domestic, or flag, or supplemental air carrier, or air carrier certificated under Part 127 of this chapter, or no pilot being used by them may, in the conduct of operations governed by this part, operate ~~a large airplane~~ an aircraft into a regular land airport in ~~schedule operations~~ in any State of the United States, the District of Columbia, or any territory or possession of the United States, unless

[Next Page is No. G-154.1]

April 23, 1969
121-46

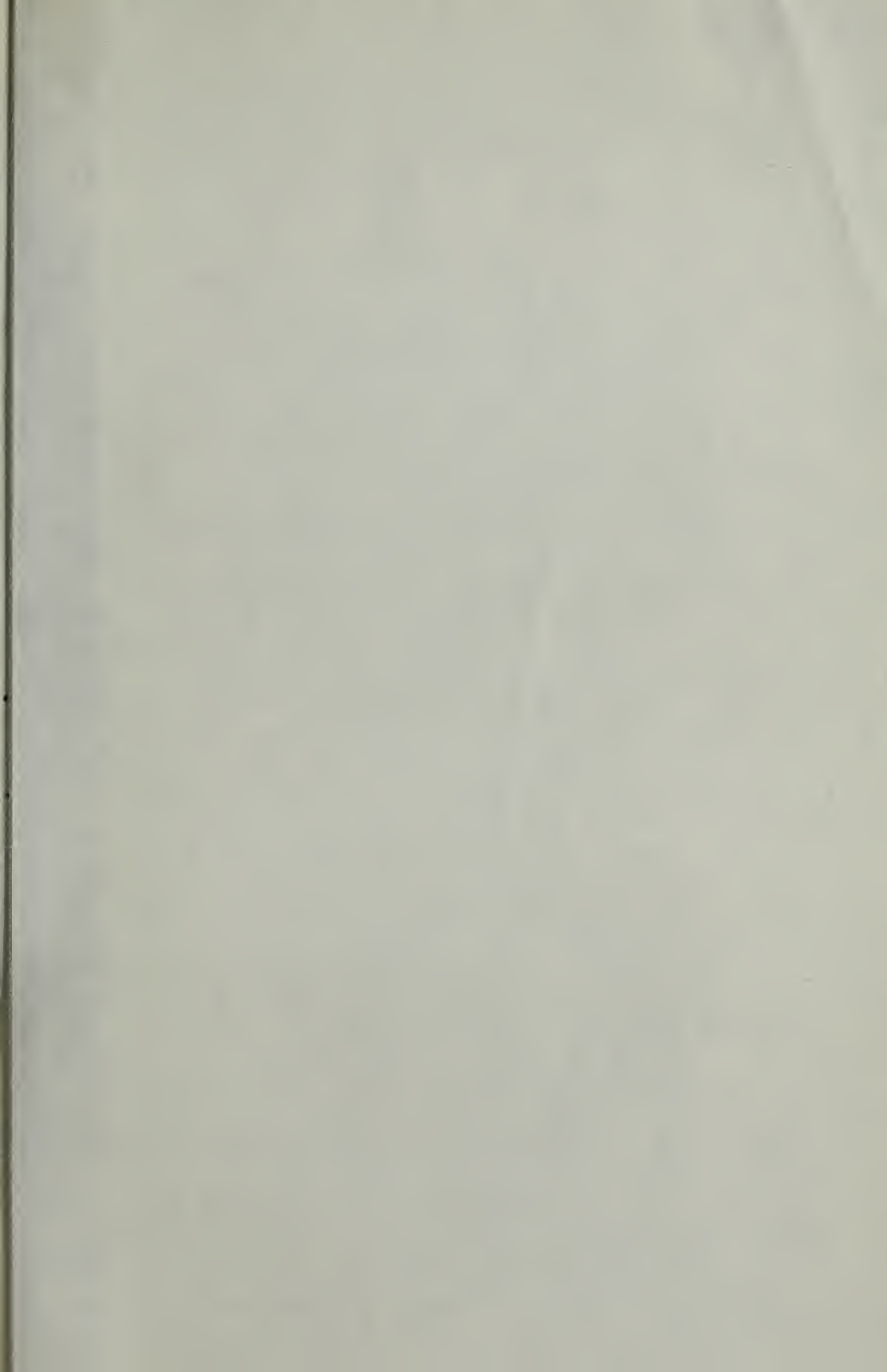
121.285(b)(2)

FEDERAL AVIATION REGULATION PART 121

- (2) The maximum weight of cargo that the bin is approved to carry and any instructions necessary to insure proper weight distribution within the bin must be conspicuously marked on the bin.
- (3) The bin may not impose any load on the floor or other structure of the airplane that exceeds the load limitations of that structure.
- (4) The bin must be attached to the seat tracks or to the floor structure of the airplane, and its attachment must withstand the load factors and emergency landing conditions applicable to the passenger seats of the airplane in which the bin is installed, multiplied by either the factor 1.15 or the seat attachment factor specified for the airplane, whichever is greater, using the combined weight of the bin and the maximum weight of cargo that may be carried in the bin.
- (5) The bin may not be installed in a position that restricts access to or use of any required emergency exit, or of the aisle in the passenger compartment.
- (6) The bin must be fully enclosed and made of material that is at least flame resistant.
- (7) Suitable safeguards must be provided within the bin to prevent the cargo from shifting under emergency landing conditions.
- (8) The bin may not be installed in a position that obscures any passenger's view of the "seat belt" sign, "no smoking" sign, or any required exit sign, unless an auxiliary sign or other approved means for proper notification of the passenger is provided.

(c) All cargo may be carried forward of the foremost seated passengers and carry-on baggage may be carried alongside the foremost seated passengers, if the cargo (including carry-on baggage) is carried either in approved cargo bins as specified in paragraph (b) of this section, or in accordance with the following:

- (1) It is properly secured by a safety belt or other tiedown having enough strength to eliminate the possibility of shifting under all normally anticipated flight and ground conditions.
- (2) It is packaged or covered in a manner to avoid possible injury to passengers.
- (3) It does not impose any load on seats or the floor structure that exceeds the load limitation for those components.
- (4) Its location does not restrict access to or use of any required emergency or regular exit, or of the aisle in the passenger compartment.
- (5) Its location does not obscure any passenger's view of the "seat belt" sign, "no smoking" sign, or required exit sign, unless an auxiliary sign or other approved means for proper notification of the passenger is provided.



THE UNIVERSITY OF CHICAGO
DEPARTMENT OF CHEMISTRY
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JANUARY 1960

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ABSTRACT
The infrared spectra of a series of substituted benzenes have been recorded in the region 1600-1400 cm⁻¹. The spectra show characteristic absorption bands which are sensitive to the nature of the substituent. The results are discussed in terms of the electronic and steric effects of the substituents.

INTRODUCTION
The infrared spectra of substituted benzenes have been extensively studied in the region 1600-1400 cm⁻¹. The spectra show characteristic absorption bands which are sensitive to the nature of the substituent. The results are discussed in terms of the electronic and steric effects of the substituents.

EXPERIMENTAL
The infrared spectra were recorded on a Perkin-Elmer 521 Grating Infrared Spectrophotometer. The samples were prepared as KBr pellets. The wavenumbers were determined by a standard method using a series of reference compounds.

RESULTS AND DISCUSSION
The infrared spectra of a series of substituted benzenes have been recorded in the region 1600-1400 cm⁻¹. The spectra show characteristic absorption bands which are sensitive to the nature of the substituent. The results are discussed in terms of the electronic and steric effects of the substituents.

CONCLUSION
The infrared spectra of substituted benzenes in the region 1600-1400 cm⁻¹ show characteristic absorption bands which are sensitive to the nature of the substituent. The results are discussed in terms of the electronic and steric effects of the substituents.

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